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THE REVISED CODE OF ST. LOUIS [GENERAL ORDINANCES.]

BEING REVISING ORDINANCE NUMBER 22902, APPROVED MARCH 19th, 1907; SUPPLEMENTED BY AN APPENDIX CONTAINING THE GENERAL ORDINANCES ENACTED BETWEEN THE DATE OF SUBMISSION TO THE ASSEMBLY OF THE REVISING ORDINANCE IN SEPTEMBER, 1906, AND THE CLOSE OF THE LAST SESSION IN APRIL 1907.

IN CONNECTION WITH WHICH ARE PUBLISHED, WITH ANNOTATIONS, THE SCHEME OF SEPARATION AND THE CHARTER OF THE CITY OF ST. LOUIS, A COMPI- LATION OF STATE LAWS SPECIALLY APPLICABLE TO THE CITY OF ST. LOUIS, AND THE STATE AND FEDERAL CONSTITUTIONS; ALSO A TABLE OF MAYORS, ALDERMEN, COUNCILMEN AND DELEGATES OF THE CITY OF ST. LOUIS FROM ITS EARLIEST ORGANI- ZATION IN 1823 TO THE PRESENT TIME, AND THE PRESENT ELECTIVE AND APPOINTIVE OFFICERS OF THE CITY AND THEIR CHIEF ASSISTANTS.

All Published by Authority of the City of St. Louis as Set Forth in the Notice of Authentication Appearing Herein.

BY
WILLIAM F. WOERNER,
OF THE ST. LOUIS BAR.

ST. LOUIS, MO.:
SAM'L F. MYERSON PRINTING CO.,
1907.

PREFACE.

3 May 12 N. O. G.
In accordance with the periodical revision of the general ordinances required by the Charter, the preliminary ordinance 22046 (supplemented by ordinance 23110) authorized the preparation of ordinance 22902, to be known as "The Revised Code of St. Louis," containing all ordinances of a general nature; and it was provided that in conjunction therewith there should be published, with annotations of the decisions specially affecting them, the Scheme of Separation, and the Charter of the City of St. Louis, also a collation of State Statutes specially applicable to the said City, and the State and Federal Constitutions.

The reviser was appointed in accordance with the preliminary ordinance, in September, 1905, and in September, 1906, submitted to the Municipal Assembly the completed work, including in ordinance form the bill in revision, which subsequently became "The Revised Code," as well as the annotated Charter, Scheme and State Laws specially applicable to St. Louis.

St. Louis - City Registrar
The ordinance in revision remained pending in the Municipal Assembly from its submission in September, 1906, until March 19, 1907, when it was finally approved and became ordinance number 22902, or "The Revised Code of St. Louis."

Since many laws and ordinances had been enacted and decisions rendered in the interim between the submission of the work to the Assembly and its passage and approval, the work (in accordance with supplemental ordinance 23110), was brought down to date of printing, the State Laws of 1907 specially applicable to St. Louis being inserted under that heading proper, and the new general ordinances being set forth in an Appendix, and references to these late amendments, laws and decisions were made in appropriate places throughout the work.

The contract for printing of the entire volume was let and begun in May, 1907, to be completed the following October.

29 May '09
In the planning of the work into Chapters and Articles the reviser preserved, whenever practicable, the order and arrangement of the preceding excellent revision (in some instances even where a departure might otherwise have been considered) for the reason that City officials and others using these

volumes (many of whom are not lawyers) have become, from frequent consultation and long use, so familiar with the old arrangement and order thereof, that a rearrangement might serve to disturb or confuse, until learned anew.

Since the authority of a reviser does not include the right of making substantial changes in the laws and ordinances themselves (see note on page 341), and as many of the ordinances in force seemed to require amendments, and many others to be repealed, and some subjects to require new provisions, the reviser prepared and submitted for adoption by the Assembly a great many suggestions, in the form of ordinance bills, on matters occurring to him in the preparation of the work. Many of the suggested bills were adopted and incorporated in the Revised Code, but many others failed of adoption.

Little need be said in a preface concerning the merits and demerits of that part of the work properly within the functions of the reviser. Such matters will come out in, and can fairly be ascertained only by, the actual use of the book; besides which an author's opinions are of no moment and often do not coincide with those of the reader.

It is hoped, however, that the annotations (especially of the Charter provisions) to which the reviser devoted considerable labor, may prove of some value. It was sought to cite and discuss the decisions of our own courts bearing upon the same, with reasonable fullness; but decisions of other States, construing other charters or ordinances, and general discussions on municipal corporation law, were eliminated, because not properly embraced within the scope of an annotated revision, belonging more properly to the functions of a textbook.

Bespeaking indulgence for probable imperfections in that part of the work properly chargeable to the reviser, this volume is respectfully submitted to the public.

St. Louis, Sept. 25, 1907.

WM. F. WOERNER.

AUTHENTICATION

—OF—

“THE REVISED CODE OF ST. LOUIS”

City of St. Louis,

Office of the Register,

October 9, 1907.

I, the undersigned, Register of the City of St. Louis, do hereby certify that in pursuance of the Charter of the City of St. Louis Article three, Section 29, was duly enacted ordinance 22046 approved June 20, 1905, providing for the Revision of the General Ordinances of the City of St. Louis, being as follows, to-wit:

An ordinance to provide for the revision of the general ordinance of the City of St. Louis in accordance with the provisions of Section Twenty-nine of Article Three of the Charter, and collation of all laws of the State of Missouri specially applicable to the City of St. Louis and an annotation and index of all said ordinances and laws, and to provide for the appointment and compensation of a reviser of said ordinances and to provide for the printing thereof and making an appropriation therefor.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section One. The Mayor shall appoint, with the approval of the Council, a competent lawyer whose duties it shall be to revise the general ordinances of the City of St. Louis and prepare and submit to the Municipal Assembly in the form of an ordinance a complete revised code of said ordinances; and he shall collate all of the laws of the State of Missouri specially applicable to the City of St. Louis. When the same is completed and said revised ordinance legally adopted by the Municipal Assembly said revised ordinance shall supersede and take the place of all general ordinance regulations of the city, and all ordinances in conflict therewith shall be deemed repealed.

Section Two. In connection with said revision of the general ordinances of the city there shall be published the Constitution of the United States, the Constitution of the State of Missouri and all statutes of the State of Missouri specially applicable to the City of St. Louis. There shall also be published in connection with said laws and ordinances a table of the Mayors, Aldermen, City Council and Municipal Assembly, as far as practicable, from the beginning of the City Government to and including the present time, which information shall be prepared by the reviser of ordinances and compiler of said laws, who shall also superintend the printing of said work in book form.

Section Three. All subjects embraced in said revised ordinance shall be properly classified and arranged alphabetically

with proper head notes and catch words, which revised ordinance when so completed shall be styled “The Revised Code of St. Louis.”

Section Four. Said Revised Code and all laws of the State, including the Constitution, specially applicable to the City of St. Louis, shall be fully annotated by inserting in foot notes all decisions of the United States Courts, Supreme Court of Missouri, Courts of Appeals of Missouri relating to said laws, charter or ordinances; and said revised code and said laws specially applicable to the City of St. Louis shall be indexed.

Section Five. The City Register is hereby directed to proceed as required by law to contract for printing in substantial book form fifteen hundred copies of said work, after said revised ordinance shall have been enacted by the Municipal Assembly and after said work has been fully completed by the reviser and compiler thereof.

Section Six. The compensation of the reviser and compiler for all work contemplated by this ordinance shall be five thousand dollars, payable out of an appropriation to be made for that purpose, upon the certificate of the Mayor that the said work has been properly done in accordance with this ordinance; and the printing and binding of said fifteen hundred copies of said work shall be paid for out of an appropriation to be made for that purpose.

Section Seven. There is hereby appropriated and set apart out of the Municipal Revenue the sum of five thousand dollars to be paid said reviser and compiler as aforesaid; and the sum of four thousand dollars for the printing and binding of fifteen hundred copies of said work.

Section Eight. The Auditor is hereby directed to draw his warrants upon the Treasurer in not exceeding the amounts and for the purpose above specified upon duly certified vouchers being presented therefor.

Approved June 20, 1905.

And thereafter was enacted ordinance 23110, approved July 9th, 1907, supplementary to said former ordinance, and providing for an appendix thereto, and being as follows, to-wit:

An ordinance to provide for the preparation of an appendix in connection with the Revised Code of St. Louis, which is to contain a collation of general ordinances and of laws applicable to St. Louis, enacted since the submission to the Municipal Assembly of the work of the reviser of said Revised Code of St. Louis, together with notations, and to provide for compensation to the reviser for such preparations, and to provide for the printing thereof with the Revised Code, and making appropriations therefor.

Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

Whereas, the Revision of the General Ordinances of the City of St. Louis and collation of laws specially applicable to St. Louis and the annotation and indexing thereof was provided for by ordinance twenty-two thousand and forty-six, approved June Twentieth, Nineteen Hundred and Five, and in pursuance of said ordinances a Reviser was duly appointed and the work called for therein duly completed by him and submitted to the Municipal Assembly on September Twenty-first, Nineteen Hundred and Six, but said Revised Code of St. Louis was not enacted and approved until the passage of ordinance twenty-two thousand nine hundred and two, approved March Ninth, Nineteen Hundred and Seven, and,

Whereas, during said interval between the introduction and passage thereof, many new ordinances were enacted, repealed or amended, and a session of the Legislature held, at which laws specially applicable to St. Louis were enacted, and numerous judicial decisions affecting the ordinances and laws were rendered, all of which matters were not, and could not, be included in said Revised Code, nor the compilation and annotations in connection therewith, because occurring after submission of said work, and,

Whereas, said Revised Code of St. Louis, as contemplated in said ordinance twenty-two thousand and forty-six is about to be published, and,

Whereas, it is desirable that all said matters should be included and appear in the volume in which the said Revised Code of St. Louis is printed, so as to bring the same as nearly as practicable to the present date, now, therefore, be it ordained as follows:

Section One. The Reviser of the General Ordinances appointed in pursuance of the provisions of ordinance twenty-two thousand and forty-six, to perform the duties

and work therein required, is hereby directed and authorized to prepare for publication in connection with the Revised Code of St. Louis, an appendix thereto setting out all general ordinances enacted, repealed or amended between the date of the submission to the Municipal Assembly of the said Reviser's work on September twenty-first, nineteen hundred and six, and the expiration of the term of the last Municipal Assembly on April, nineteen hundred and seven, and in so far as practicable to set out all laws specially applicable to St. Louis enacted at the sessions of the State Legislature of nineteen hundred and seven, and in all of said things to make reference thereto in the indexes of the Revised Code and to bring down to date so far as practicable the notation of decisions of the Appellate Courts of Missouri in the foot notes to the work submitted heretofore and to supervise the printing of all said work in the same manner as if it were a part of the said Revised Code.

Section Two. The City Register is hereby directed and authorized to contract for the printing of said appendix as part of the volume containing the Revised Code of St. Louis.

Section Three. The compensation of the Reviser and Compiler for all the additional work in connection with said appendix contemplated by this ordinance shall be seven hundred and fifty dollars, payable out of an appropriation to be made for that purpose, upon the certificate of the Mayor, that the work has been properly done in accordance with this ordinance and the expense of the printing of said appendix shall be paid for out of an appropriation to be made for that purpose.

Section Four. There is hereby appropriated and set apart out of the municipal revenue in addition to the appropriation made by ordinance twenty-two thousand and forty-six, approved June twentieth, nineteen hundred and five, the sum of seven hundred and fifty dollars to be paid to said Reviser and Compiler as aforesaid, and the sum of five hundred dollars for the printing of said appendix in conjunction with the Revised Code of St. Louis.

Section Five. The Auditor is hereby directed to draw his warrants upon the Treasurer in not exceeding the amounts and for the purpose above specified upon duly certified vouchers being produced therefor.

Approved July 9, 1907.

And in pursuance of said ordinances was duly prepared and enacted according to law, the ordinance in revision, numbered 22902, approved March 19, 1907, known as "The Revised Code of St. Louis."

And in pursuance of said ordinances, and under the further authority duly conferred according to law and by the City of St. Louis, is published this volume containing "The Revised Code of St. Louis," being said ordinance number 22902 in revision of the general ordinances, as therein purported; and also is published the appendix thereto containing the general ordinances enacted after the submission to the Assembly of said revising ordinance, and down to the close of the session of the Municipal Assembly of 1906-1907, to-wit: April, 1907.

And I certify that I have examined and compared all the ordinances embraced in this volume with the original ordinances as officially enrolled in the records of the Register's Office, and that all the said ordinances as in this volume published are true copies of the said originals.

A copy of this volume with my original certificate attached has been deposited and is on file in the office of the Register of the City of St. Louis.



IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the seal of the City of St. Louis, this 9th day of October, 1907.

PATRICK J. REGAN, Register.

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CONSTITUTION

—OF THE—

UNITED STATES OF AMERICA.

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Preamble.—We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION FOR THE UNITED STATES OF AMERICA.

ARTICLE I.

OF THE LEGISLATIVE POWER.

Section 1. Legislative power, where vested.—All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Sec. 2. House of Representatives, how and by whom chosen.—The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

Qualifications of Representative.—No person shall be a Representative who shall not have attained to the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Apportionment of Representatives and direct taxes—census.—Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative, and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

Vacancies in House of Representatives.—When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

Speaker and officers of House—impeachment.—The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Sec. 3. Senators—election and term of.—The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each senator shall have one vote.

Division into classes—vacancies—qualifications.—Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

Vice-President.—The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

President pro tem. and other officers of Senate.—The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

Impeachment, power to try—presiding officer on trial.—The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment on Impeachment.—Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

Sec. 4. Election of Senators and Representatives—sessions of Congress.—The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

Sec. 5. Qualifications of members—judges of, quorum.—Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Rules of proceedings—contempts, expulsions.—Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Journals—yeas and nays.—Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Adjournments.—Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 6. Compensation of members—privileges.—The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Ineligibility to office.—No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Sec. 7. Revenue Bills—where to originate.—All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Bills, approval of President—veto proceedings thereon.—Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Orders, resolutions and votes—President's approval, veto.—Every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8. Powers of Congress.—The Congress shall have power:

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

- To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;
- To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;
- To provide for the punishment of counterfeiting the securities and current coin of the United States;
- To establish postoffices and post roads;
- To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
- To constitute tribunals inferior to the supreme court;
- To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
- To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
- To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
- To provide and maintain a navy;
- To make rules for the government and regulation of the land and naval forces;
- To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;
- To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;
- To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to execute like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards and other needful buildings; and
- To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sec. 9. Migration and importation of persons.—The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Writ of habeas corpus.—The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.

Bills of attainder and ex post facto laws.—No bill of attainder or *ex post facto* law shall be passed.

Capitation and direct taxes.—No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

Taxation on exports—Commercial regulations.—No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear or pay duties in another.

Appropriations of public money—accounts.—No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Titles of nobility—presents, etc., to officers.—No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince or foreign state.

Sec. 10. Limitations of the powers of states.—No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

OF THE EXECUTIVE.

Section 1. President and Vice-President—term of office, election of.—The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same time, be elected as follows:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.]

[This clause has been superseded by the twelfth amendment.]

Time of choosing electors.—The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

President's qualifications.—No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Vacancy in office of President.—In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Oath of.—Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States."

Sec. 2. Powers and duties of President.—The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have

power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Vacancies in office.—The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Sec. 3. Powers and duties of President, continued.—He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sec. 4. Conviction of treason, etc.—The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

OF THE JUDICIARY.

Section 1. Judicial power—judges—compensation—tenure of office.—The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sec. 2. Judicial power—extends to what—Supreme Court, jurisdiction of.—The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Sec. 3. Treason against the United States.—Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

MISCELLANEOUS PROVISIONS.

Section 1. Records and judicial proceedings of sister States.—Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Sec. 2. Privileges and immunities of the citizens of several States.—The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Fugitives from justice.—A person charged in any State with treason, felony or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.

Fugitives from service or labor.—No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. Admission of new States.—New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.

Government of United States—territory and property.—The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Sec. 4. Guaranty to each State of a Republican form of government.—The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature or of the executive (when the Legislature cannot be convened), against domestic violence.

ARTICLE V.

Amendments to Constitution.—The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

Debts prior to adoption of Constitution.—All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the confederation.

Supreme law of the land.—This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

Oath to support Constitution of United States—no religious test for United States office.—The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

Ratification of Constitution.—The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON, *President*.

Attest: WILLIAM JACKSON, *Secretary*.

AMENDMENTS TO THE CONSTITUTION.

PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE
SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE
ORIGINAL CONSTITUTION.

ARTICLE I.

Religious liberty—freedom of speech—right of petition.—Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

Right to bear arms.—A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

Quartering of soldiers.—No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

ARTICLE IV.

Unreasonable searches, seizures, etc., prohibited.—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

Rights of persons accused of crime—right of property, etc.—No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

Criminal prosecutions—speedy trial, etc.—In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

Trial by jury in civil actions.—In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of common law.

ARTICLE VIII.

Excessive fines, etc., prohibited.—Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

ARTICLE IX.

Rights retained by the people.—The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

Powers reserved to the State or people.—The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

Judicial power—limitation on.—The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

Election of President and Vice-President.—The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate; the president of the Senate shall, in presence of the Senate and House of Representatives, open all certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest number not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them before the fourth day of March next following, then the Vice-President shall act as President, as in the case of death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.

Section 1. Slavery prohibited.—Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

Sec. 2 Enforcement of prohibition.—Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

Section 1. Citizenship—rights of citizens—due process of law and equal protection of the laws.—All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Apportionment of Representatives.—Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Sec. 3. Disqualifications to hold office.—No person shall be a Senator or Representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

Sec. 4. Public debt.—The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations and claims shall be held illegal and void.

Sec. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

Section 1. Elective franchise.—The rights of citizens of the United States to vote shall not be denied or abridged by the United States, or any State, on account of race or color, or previous condition of servitude.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

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ACT OF ADMISSION OF MISSOURI.

AN ACT TO AUTHORIZE THE PEOPLE OF THE MISSOURI TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT, AND FOR THE ADMISSION OF SUCH STATE INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES, AND TO PROHIBIT SLAVERY IN CERTAIN TERRITORIES.

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of that portion of the Missouri Territory included within the boundaries hereinafter designated, be and they are hereby authorized to form for themselves a Constitution and State Government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon an equal footing with the original States, in all respects whatsoever.

Sec. 2. *And be it further enacted,* That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning in the middle of the Mississippi river, on the parallel of thirty-six degrees of north latitude; thence west, along that parallel of latitude, to the St. Francis river; thence up and following the course of that river, in the middle of the main channel thereof, to the parallel of latitude thirty-six degrees and thirty minutes; thence west along the same to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river; thence from the point aforesaid, north, along the said meridian line, to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line to correspond with the Indian boundary line; thence east from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence down and along the middle of the main channel of the said river Des Moines, to the mouth of the same, where it empties into the Mississippi river; thence due east to the middle of the main channel of the Mississippi river; thence down and following the course of the Mississippi river, in the middle of the main channel thereof, to the place of beginning: *Provided,* That said State shall ratify the boundaries aforesaid: (a) *and provided also,* That the said State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State, so far as the said rivers shall form a common boundary to the said State and any other State or States, now or hereafter to be formed and bounded by the same—such rivers to be common to both; and that the river Mississippi, and the navigable rivers and waters leading to the same, shall be common highways, and forever free, as well to the inhabitants of the said State as to the other citizens of the United States, without any tax, duty, impost or toll therefor imposed by the said State.

Sec. 3. *And be it further enacted,* That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said territory three months previous to the day of election, and all other persons qualified to vote for representatives to the General Assembly of the said territory, shall be qualified to be elected, and they are hereby qualified and authorized to vote, and choose representatives to form a convention, who shall be apportioned amongst the several counties as follows: From the county of Howard, five representatives; from the county of Cooper, three representatives; from the county of Montgomery, two representatives; from the county of Pike, one representative; from the county of Lincoln, one representative; from the county of St. Charles, three representatives; from the county of Franklin, one representative; from the county of St. Louis, eight representatives; from the county of Jefferson, one representative; from the county of Washington, three representatives; from the county of Ste. Genevieve, four representatives; from the county of Madison, one

(a) The territory now covered by the counties of Andrew, Atchison, Buchanan, Holt, Nodaway and Platte, known as the Platte purchase, was by act of Congress

of June 7, 1836, annexed to the State of Missouri. As to the boundaries of the City of St. Louis, see Scheme Sec. 1; also Charter Art. I, Sec. 2.

representative; from the county of Cape Girardeau, five representatives; from the county of New Madrid, two representatives; from the county of Wayne, and that portion of the county of Lawrence that falls within the boundaries herein designated, one representative. And the election for the representatives aforesaid shall be holden on the first Monday, and two succeeding days, of May next, throughout the several counties aforesaid, in the said territory, and shall be in every respect held and conducted in the same manner, and under the same regulations, as prescribed by the laws of the said territory regulating elections therein for members of the General Assembly, except that the returns of the election in that portion of Lawrence county included in the boundaries aforesaid shall be made to the county of Wayne, as is provided in other cases under the laws of said territory.

Sec. 4. *And, be it further enacted*, That the members of the convention thus duly elected shall be, and they are hereby authorized to meet at the seat of government of said territory, on the second Monday of the month of June next; and the said convention, when so assembled, shall have power and authority to adjourn to any other place in the said territory which to them shall seem best for the convenient transaction of their business; and which convention, when so met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said territory, as included within the boundaries above designated; and if it be deemed expedient, the convention shall be and hereby is authorized to form a constitution and State government, or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, as they shall designate, and shall meet at such time and place as shall be prescribed by the said ordinance, and shall then form for the people of said territory, within the boundaries aforesaid, a constitution and State government: *Provided*, That the same, whenever formed, shall be republican and not repugnant to the Constitution of the United States, and that the Legislature of said State shall never interfere with the primary disposal of the soil of the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers, and that no tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents.

Sec. 5. *And, be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

Sec. 6. *And, be it further enacted*, That the following propositions be and the same are hereby offered to the convention of the said Territory of Missouri, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First, That section numbered sixteen in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township, for the use of schools.

Second, That all salt springs, not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State for the use of said State—the same to be selected by the Legislature of the said State, on or before the first day of January, in the year one thousand eight hundred and twenty-five, and the same, when so selected, to be used under such terms, conditions and regulations as the Legislature of said State shall direct: *Provided*, That no salt spring, the right whereof now is or hereafter shall be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State; *and, provided also*, That the Legislature shall never sell or lease the same at any one time for a longer period than ten years without the consent of Congress.

Third, That five per cent of the net proceeds of the sale of lands lying within the said Territory or State, and which shall be sold by Congress from and after the first day of January next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the State, under the direction of the Legislature thereof, and the other two-fifths in defraying, under the direction of Congress, the expenses to be incurred in making of a road or roads, canal or canals, leading to the said State.

Fourth, That four entire sections of land be and the same are hereby granted to the said State, for the purpose of fixing their seat of government thereon, which said sections shall, under the direction of the Legislature of said State, be located, as near as may be, in one body, at any time, in such townships and ranges as the Legislature aforesaid may select, on any of the public lands of the United States; *Provided*, That such locations shall be made prior to the public sale of the lands of the United States surrounding such location.

Fifth, That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the other lands heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the Legislature of said State, to be appropriated solely to the use of such seminary by the said Legislature: *Provided*, That the five foregoing propositions herein offered are on the condition that the convention of the said State shall provide, by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county or township, or any other purpose whatever, for the term of five years from and after the day of sale; *and further*, That the bounty lands granted or hereafter to be granted for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt as aforesaid from taxation for the term of three years from and after the date of the patents respectively. (b)

Sec. 7. *And be it further enacted*, That in case a constitution and State Government shall be formed for the people of the said Territory of Missouri, the said convention of Representatives, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of State Government as shall be formed or provided to be transmitted to Congress.

Sec. 8. *And, be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes, north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be and is hereby forever prohibited. *Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service aforesaid. (c)

Approved March 6, 1820.

(b) Edwards v. Lesueur, 132 Mo. 410.

(c) In pursuance of the provisions of this act, members of the convention were elected to form a constitution and state government. They assembled at St. Louis on the 12th of June, 1820, and determined that it was expedient to form a constitution and state government, and having accepted the five propositions offered by the sixth section of the above act, passed an ordinance, which was finally signed on the 19th of July, 1820. A constitution was formed whereby the boundaries mentioned in the second section of the above act were ratified, and a new state established by the name of the State of Missouri. Agreeably to the seventh section of the above act, an attested copy of the constitution was transmitted to Congress. Under this constitution, in August, 1820, the people held a general election, at which

state and county officers were chosen and the state government organized. From this cause the records of the state date the admission of Missouri into the union from August, 1820. A resolution was introduced in congress for the unconditional admission of the State into the Union, as had been the uniform course in relation to other new states. This resolution was, however, defeated; and finally, after much discussion, a resolution was passed for admitting the state on a certain condition. The legislature of Missouri, on the 27th day of June, 1821, accepted the condition, protesting at the same time against the right of congress to impose it, and on the 10th of August, 1821, the President of the United States issued his proclamation announcing the acceptance by this state of the condition.

ORDINANCE OF ACCEPTANCE.

AN ORDINANCE DECLARING THE ASSENT OF THE PEOPLE OF THE STATE OF MISSOURI, BY THEIR REPRESENTATIVES IN CONVENTION ASSEMBLED, TO CERTAIN CONDITIONS AND PROVISIONS IN THE ACT OF CONGRESS OF THE SIXTH OF MARCH, ONE THOUSAND EIGHT HUNDRED AND TWENTY, ENTITLED "AN ACT TO AUTHORIZE THE PEOPLE OF MISSOURI TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT, AND FOR THE ADMISSION OF SUCH STATE INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES, AND TO PROHIBIT SLAVERY IN CERTAIN TERRITORIES."

PROPOSITIONS.

- | | |
|--|--|
| <ol style="list-style-type: none">1. School lands.2. Salt springs and six sections adjoining each. Proviso in favor of confirmations to individuals.3. Funds for roads and canals.4. Lands for locating permanent seat of government. | <ol style="list-style-type: none">5. University lands.
Propositions accepted.
Lands exempt from taxation.
Modification of proposition concerning tax on lands proposed.
This ordinance irrevocable without the consent of the United States. |
|--|--|

WHEREAS, The act of Congress of the United States of America, approved March the sixth, one thousand eight hundred and twenty, entitled "An act to authorize the people of Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain territories," contains certain requisitions and provisions, and, among other things, has offered to this Convention, when formed, for and in behalf of the people inhabiting this State, for their free acceptance or rejection, the five following propositions, and which, if accepted by this Convention in behalf of the people, as aforesaid, are to be obligatory on the United States, viz.:

First, That section numbered sixteen in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State, for the use of the inhabitants of such township for use of schools.

Second, That all salt springs, not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State for the use of said State, the same to be selected by the Legislature of said State on or before the first day of January, in the year one thousand eight hundred and twenty-five and the same, when so selected, to be used under such terms, conditions and regulations as the Legislature of said State shall direct: *Provided*, That no salt spring, the right whereof now is, or hereafter shall be, confirmed or adjudged to any individual or individuals, shall by this section be granted to said State; *and provided, also*, That the Legislature shall never sell or lease the same, at any one time, for a longer period than ten years, without the consent of Congress.

Third, That five per cent of the net proceeds of the sale of lands lying within the said Territory or State, and which shall be sold by Congress from and after the first day of January next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the State, under the direction of the Legislature thereof, and the other two-fifths in defraying, under the direction of Congress, the expenses to be incurred in making of a road or roads, canal or canals, leading to the said State.

Fourth, That four entire sections of land be, and the same are hereby granted to said State for the purpose of fixing their seat of government thereon; which said sections shall, under the direction of the Legislature of said State, be located as near as may be in one body, at any time, in such townships and ranges as the Legislature aforesaid may select, on any of the public lands of the United States: *Provided*, That such location shall be made prior to the public sale of the lands of the United States surrounding such location.

Fifth, That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the other lands

heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the Legislature of said State, to be appropriated solely for the use of such seminary by the Legislature.

Now THIS CONVENTION, for and in behalf of the people inhabiting this State, and by the authority of the said people, do accept the five before recited propositions, offered by the act of Congress under which they are assembled; and, in pursuance of the conditions, requisitions and other provisions in the before recited act of Congress contained, this Convention, for and in behalf of the people inhabiting this State, do ordain, agree and declare, that every and each tract of land sold by the United States from and after the first day of January next, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county or township, or any other purpose whatever, for the term of five years from and after the respective days of sale thereof; and that the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt, as aforesaid, from taxation for the term of three years from and after the date of the patents respectively: *Provided, nevertheless,* That if the Congress of the United States shall consent to repeal and revoke the following clause in the fifth proposition of the sixth section of the act of Congress before recited, and in these words, viz.: "That every and each tract of land sold by the United States from and after the first day of January next, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county or township, or any purpose whatever, for the term of five years from and after the day of sale; and, further," that this Convention, for and in behalf of the people of the State of Missouri, do hereby ordain, consent and agree that the same be so revoked and repealed; without which consent of the Congress, as aforesaid, the said clause to remain in full force and operation, as first above provided for in this ordinance: and this Convention doth hereby request the Congress of the United States so to modify their third proposition, that the whole amount of five per cent on the sale of public lands therein offered may be applied to the construction of roads and canals, and the promotion of education within this State, under the direction of the Legislature thereof. And this convention, for and in behalf of the people inhabiting this State, and by the authority of said people, do further ordain, agree and declare that this ordinance shall be irrevocable without the consent of the United States. (a)

Done in Convention, at St. Louis, in the State of Missouri, this nineteenth day of July, in the year of our Lord one thousand eight hundred and twenty, and of the independence of the United States of America the forty-fifth.

By order of the Convention.

DAVID BARTON, *President.*

Attest: WM. G. PETTUS, *Secretary.*

() Agreeably to the compact formed between the United States and the State of Missouri, the school lands mentioned in the first proposition have been appropriated to the use of common schools. The salt springs and lands adjoining have been selected and disposed of. The lands for the location of the seat of government have been selected and appropriated. The

university lands have been designated and mostly disposed of.

Congress, by an act approved June 10, 1852, consented to such a modification of the compact with this State as to permit the State to impose a tax or taxes upon all lands sold by the United States in the State, from and after the day of such sale.

CONSTITUTION

OF THE

STATE OF MISSOURI

ADOPTED BY A VOTE OF THE PEOPLE, OCTOBER 30, 1875. WENT INTO OPERATION, NOVEMBER 30, 1875.

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49. Subscriptions by the state prohibited.
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PREAMBLE.

We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do, for the better government of the State, establish this Constitution.

ARTICLE I.

BOUNDARIES.

Section 1. **Boundaries and jurisdiction.**—The boundaries of the State, as heretofore established by law, are hereby ratified and confirmed. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the State, so far as the said rivers shall form a common boundary to this State and any other State or States; and the river Mississippi and the navigable rivers and waters leading to the same shall be common highways, and forever free to the citizens of this State and of the United States, without any tax, duty, out the consent of the United States. (a)

[Same in substance as Const. 1865, Art. 11, Sec. 2, excepting first sentence.]

ARTICLE II.

BILL OF RIGHTS.

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:

Section 1. **Political power, origin of.**—That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

[Same as Const 1865, Art. 1, Sec. 4.]

Sec. 2. **Internal affairs, regulation of.**—That the people of this State have the inherent, sole and exclusive right to regulate the internal government and police thereof, and to alter and abolish their Constitution and form of government whenever they may deem it necessary to their safety and happiness: *Provided*, Such change be not repugnant to the Constitution of the United States.

[Same in substance as Const. 1865, Art. 2, Sec. 5.]

Sec. 3. **Local self-government not to be impaired.**—That Missouri is a free and independent State, subject only to the Constitution of the United States; and as the preservation of the states and the maintenance of their governments are necessary to an indestructible Union, and were intended to co-exist with it, the Legislature is not authorized to adopt, nor will the people of this State ever assent to any amendment or change of the Constitution of the United States which may in any wise impair the right of local self-government belonging to the people of this State.

[New section.]

Sec. 4. **Purpose of government—natural rights of persons.**—That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty and the enjoyment of the gains of their own industry; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails of its chief design.

[Same in substance as Const. 1865, Art. 1, Sec. 1.]

Sec. 5. **Religious freedom—belief not to affect citizen—liberty of conscience.**—That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no person can, on account of his religious opinions, be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying, or from serving as a juror; that no human authority can control or interfere with the rights of conscience; that no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of this State, or with the rights of others.

[Same as Const. 1865, Art. 1, Sec. 9.]

Sec. 6. **Religion, individual support of not compulsory.**—That no person can be compelled to erect, support or attend any place or system of worship, or to maintain or support any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same.

[Same in substance as Const. 1865, Art. 1, Sec. 10.]

a. For boundaries of the City of St. Louis see Charter Art. I, Sec. 2 and annotations thereto; Scheme Sec. 1.

Sec. 7. Religion, State must not aid church.—That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion, or any form of religious faith or worship.

[First clause new. Last clause same in substance as Const. 1865, Art. 1, Sec. 11.]

Sec. 8. Religious corporation not to be established.—That no religious corporation can be established in this State, except such as may be created under a general law for the purpose only of holding the title to such real estate as may be prescribed by law for church edifices, parsonages and cemeteries.

[Const. 1865 limited quantity of land to five acres in country and one acre elsewhere. Art. 1, Sec. 12.]

Sec. 9. Elections must be free and open.—That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

[Same in substance as Const. 1865, Art. 1, Sec. 14.]

Sec. 10. Courts of justice must be open.—That courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice should be administered without sale, denial or delay.

[Same in substance as Const. 1865, Art. 1, Sec. 15.]

Sec. 11. Freedom from search and seizure, requisites of warrant.—That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation reduced to writing.

[Same as Const. 1865, Art. 1, Sec. 23, except words "reduced to writing."]

Sec. 12. Felonies and misdemeanors prosecuted by indictment or information.—No person shall be prosecuted criminally for felony or misdemeanor otherwise than by indictment or information, which shall be concurrent remedies, but this shall not be construed to apply to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger.

[Const. 1865, Art. 1, Sec. 24. Section as amended, adopted in 1900.]

Sec. 13. Treason defined, no attainder, estates of suicides not forfeited.—That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

[Forfeiture for treason under Const. of 1865, Art. 1, Secs. 25 and 26. Second and last clauses of above section not in that instrument.]

Sec. 14. Freedom of speech, press—libel, truth in justification.—That no law shall be passed impairing the freedom of speech; that every person shall be free to say, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

[Same in substance as Const. 1865, Art. 1, Sec. 27.]

Sec. 15. Ex post facto laws, etc., prohibited.—That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be passed by the General Assembly

[The clauses "or making any irrevocable grant of special privileges or immunities," and "by the general assembly" are new.]

Sec. 16. No imprisonment for debt.—That imprisonment for debt shall not be allowed, except for the non-payment of fines and penalties imposed for violation of law.

[Same in substance as Const. 1865, Art. 1, Sec. 24.]

Sec. 17. Right to bear arms, when.—That the right of no citizen to keep and bear arms in defense of his home, person and property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons.

[Const. 1865, Art. 1, Sec. 8, modified.]

Sec. 18. Officers to attend personally to duties.—That no person elected or appointed to any office or employment of trust or profit under the laws of this State, or any ordinance of any municipality in this State, shall hold such office without personally devoting his time to the performance of the duties to the same belonging.

[New section.]

Sec. 19. Collectors, receivers, etc., in default, ineligible to office.—That no person who is now or may hereafter become a collector or receiver of public money, or assistant or deputy of such collector or receiver, shall be eligible to any office of trust or profit in the State of Missouri under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all the public money for which he may be accountable.

[Const. 1865, Art. 4, Sec. 12, modified.]

Sec. 20. Property not to be taken for private use—public use a judicial question.—That no private property can be taken for private use, with or without compensation, unless by the consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in such manner as may be prescribed by law; and that whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and as such judicially determined, without regard to any legislative assertion that the use is public.

[New section.]

Sec. 21. Property for public use—compensation.—That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be prescribed by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad tracks without consent of the owner thereof shall remain in such owner, subject to the use for which it is taken.—(b.)

[New except substance of first sentence. Const. 1865, Art. 1, Sec. 16.]

Sec. 22. Rights of accused in criminal prosecutions.—In criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy, public trial by an impartial jury of the county.

[Same in effect as Const. 1865, Art. 1, Sec. 18.]

Sec. 23. Accused not compelled to testify—twice in jeopardy, etc.—That no person shall be compelled to testify against himself in a criminal cause, nor shall any person, after being once acquitted by a jury, be again, for the same offense, put in jeopardy of life or liberty; but if the jury to which the question of his guilt or innocence is submitted fail to render a verdict, the court before which the trial is had may, in its discretion, discharge the jury and commit or bail the prisoner for trial at the next term of court, or, if the state of business will permit, at the same term; and if the judgment be arrested after a verdict of guilty on a defective indictment, or if judgment on a verdict of guilty be reversed for error in law, nothing herein contained shall prevent a new trial of the prisoner on a proper indictment, or according to correct principles of law.

[Portion of section new. See Const. 1865, Art. 1, Secs. 18 and 19.]

Sec. 24. Bail, when allowed.—That all persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

[Same as Const. 1865, Art. 1, Sec. 20.]

Sec. 25. Excessive bail and unusual punishment.—That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

[Same as Const. 1865, Art. 1, Sec. 21.]

Sec. 26. Habeas corpus.—That the privilege of the writ of habeas corpus shall never be suspended.

[Const. 1865, Art. 1, Sec. 22, modified.]

Sec. 27. Military subordinate to civil power.—That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

[Const. 1865, Art. 1, Sec. 32, modified.]

Sec. 28. Trial by jury inviolate—grand jury—twelve men.—The right of trial by jury, as heretofore enjoyed, shall remain inviolate, but a jury for the trial of civil and criminal cases in courts not of record, may consist of less than twelve men as may be prescribed by law; and that a two-thirds majority of such number prescribed by law concurring may render a verdict in all civil cases; and that in the trial by jury of all civil cases in courts of record three-fourths of the members of the jury concurring may render a verdict. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment or a true bill: Provided, however, That no grand jury shall be convened except upon an order of a judge of a court having the power to try and determine felonies; but when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime.

[See Const. 1865, Art. 1, Sec. 17. Section, as amended (two amendments), adopted in 1900.]

Sec. 29. People, right to assemble and petition.—That the people have the right peaceably to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

[Const. 1865, Art. 1, first clause Sec. 8.]

Sec. 30. Due process of law—person.—That no person shall be deprived of life, liberty or property, without due process of law.

[Const. 1865, Art. 1, Sec. 18. Same in substance as last clause.]

Sec. 31. Slavery prohibited.—That there cannot be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

[Const. 1865, Art. 1, Sec. 2.]

Sec. 32. Rights reserved.—The enumeration in this Constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

[New section.]

ARTICLE III.

THE DISTRIBUTION OF POWERS.

Three departments of government.—The powers of government shall be divided into three distinct departments—the legislative, executive and judicial—each of which shall be confided to a separate magistracy, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of those departments, shall exercise any power belonging to either of the others, except in the instances in this Constitution expressly directed or permitted.

[Same substantially as Const. 1865, Art. 3.]

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

Section 1. The legislative power, subject to the limitations herein contained, shall be vested in a Senate and House of Representatives, to be styled "The General Assembly of the State of Missouri."

[Substantially same as Const. 1865, Art. 4, Sec. 1.]

REPRESENTATION AND APPORTIONMENT.

Sec. 2. Representatives, apportionment.—The House of Representatives shall consist of members to be chosen every second year by the qualified voters of the several counties, and apportioned in the following manner: The ratio of representation shall be ascertained at each apportioning session of the General Assembly, by dividing the whole number of inhabitants of the State, as ascertained by the last decennial census of the United States, by the number two hundred. Each county having one ratio, or less, shall be entitled to one Representative; each county having two and a half times said ratio shall be entitled to two Representatives; each county having four times said ratio shall be entitled to three Representatives; each county having six times such ratio shall be entitled to four Representatives, and so on above that number, giving one additional member for every two and a half additional ratios.

[Const. 1865, Art. 4, Sec. 2, gave one additional member for every three additional ratios.]

*Proposed amendment will be submitted at the election in 1908 (Laws 1907, p. 452).

Sec. 3. Counties, division of into districts.—When any county shall be entitled to more than one Representative, the county court shall cause such county to be subdivided into districts of compact and contiguous territory, corresponding in number to the Representatives to which such county is entitled, and in population as nearly equal as may be, in each of which the qualified voters shall elect one Representative, who shall be a resident of such district: *Provided*, That when any county shall be entitled to more than ten Representatives, the circuit court shall cause such county to be subdivided into districts, so as to give each district not less than two nor more than four Representatives, who shall be residents of such district—the population of the districts to be apportioned to the number of Representatives to be elected therefrom.

[Proviso new. Rest same as last part of Const. 1865, Art. 4, Sec. 2.]

Sec. 4. Representatives—qualifications.—No person shall be a member of the House of Representatives who shall not have attained the age of twenty-four years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State two years, and an inhabitant of the county or district which he may be chosen to represent one year next before the day of his election, if such county or district shall have been so long established, but if not, then of the county or district from which the same shall have been taken, and who shall not have paid a State and county tax within one year next preceding the election.

[Const. 1865, Art. 4, Sec. 3.]

Sec. 5. Senators, number—Senatorial districts.—The Senate shall consist of thirty-four members, to be chosen by the qualified voters of their respective districts for four years. For the election of Senators the State shall be divided into convenient districts, as nearly equal in population as may be, the same to be ascertained by the last decennial census taken by the United States.

[Substantially same as Const. 1865, Art. 4, Secs. 4 and 6.]

Sec. 6. Senators, qualifications—counties divided, when.—No person shall be a Senator who shall not have attained the age of thirty years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen to represent one year next before the day of his election, if such district shall have been so long established, but if not, then of the district or districts from which the same shall have been taken, and who shall not have paid a State and county tax within one year next preceding the election. When any county shall be entitled to more than one Senator, the circuit court shall cause such county to be subdivided into districts of compact and contiguous territory, and of population as nearly equal as may be, corresponding in number with the Senators to which such county may be entitled; and in each of these one Senator, who shall be a resident of such district, shall be elected by the qualified voters thereof.

[See Const. 1865, Art. 4, Sec. 5.]

Sec. 7. Apportionment, rule of.—Senators and Representatives shall be chosen according to the rule of apportionment established in this Constitution, until the next decennial census by the United States shall have been taken, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census, and every ten years thereafter upon the basis of the United States census; or if such census be not taken, or is delayed, then on the basis of a State census; such apportionment to be made at the first session of the General Assembly after each census: *Provided*, That if at any time, or from any cause, the General Assembly shall fail or refuse to district the State for Senators, as required in this section, it shall be the duty of the Governor, Secretary of State and Attorney-General, within thirty days after the adjournment of the General Assembly on which such duty devolved, to perform said duty, and to file in the office of the Secretary of State a full statement of the districts formed by them, including the names of the counties embraced in each district, and the numbers thereof; said statement to be signed by them, and attested by the Great Seal of the State, and upon the proclamation of the Governor, the same shall be as binding and effectual as if done by the General Assembly.

[The proviso and the two preceding clauses are new. Const. 1865, Art. 4, Sec. 7.]

Sec. 8. Representatives, number of until apportionment.—Until an apportionment of Representatives can be made in accordance with the provisions of this article, the House of Representatives shall consist of one hundred and forty-three members, which shall be divided among the several counties of the State as follows: The county of St. Louis shall have seventeen; the county of Jackson four; the county of Buchanan three; the counties of Franklin, Greene, Johnson, Lafayette, Macon, Marion, Pike and Saline, each two, and each of the other counties in the State one.

[New section.]

[Apportionment made as authorized by this section by act approved March 12th, 1901. See laws 1901.]

Sec. 9. Districts, alteration, contiguity.—Senatorial and Representative districts may be altered, from time to time, as public convenience may require. When any Senatorial district shall be composed of two or more counties, they shall be contiguous; such district to be as compact as may be, and in the formation of the same no county shall be divided.

[“Such districts to be compact,” etc., is new. Const. 1865, Art. 4, Sec. 8.]

Sec. 10. Senators and Representatives, when elected.—The first election of Senators and Representatives, under this Constitution, shall be held at the general election in the year one thousand eight hundred and seventy-six, when the whole number of Representatives, and the Senators from the districts having odd numbers, who shall compose the first class, shall be chosen; and in one thousand eight hundred and seventy-eight, the Senators from the districts having even numbers, who shall compose the second class, and so on at each succeeding general election, half the Senators provided for by this Constitution shall be chosen.

[Const. 1865, Art. 4, Secs. 9 and 10.]

Sec. 11. Senatorial districts.—Until the State shall be divided into Senatorial districts, in accordance with the provisions of this article, said districts shall be constituted and numbered as follows:

The first district shall be composed of the counties of Andrew, Holt, Nodaway and Atchison.

Second District—The counties of Buchanan, DeKalb, Gentry and Worth.

Third District—The counties of Clay, Clinton and Platte.

Fourth District—The counties of Caldwell, Ray, Daviess and Harrison.

Fifth District—The counties of Livingston, Grundy, Mercer and Carroll.

Sixth District—The counties of Linn, Sullivan, Putnam and Chariton.

Seventh District—The counties of Randolph, Howard and Monroe.

Eighth District—The counties of Adair, Macon and Schuyler.

Ninth District—The counties of Audrain, Boone and Callaway.

Tenth District—The counties of St. Charles and Warren.

Eleventh District—The counties of Pike, Lincoln and Montgomery.

Twelfth District—The counties of Lewis, Clark, Scotland and Knox.

Thirteenth District—The counties of Marion, Shelby and Ralls.

Fourteenth District—The counties of Bates, Cass and Henry.

Fifteenth District—The county of Jackson.

Sixteenth District—The counties of Vernon, Barton, Jasper, Newton and McDonald.

Seventeenth District—The counties of Lafayette and Johnson.

Eighteenth District—The counties of Greene, Lawrence, Barry, Stone and Christian.

Nineteenth District—The counties of Saline, Pettis and Benton.

Twentieth District—The counties of Polk, Hickory, Dallas, Dade, Cedar and St. Clair.

Twenty-first District—The counties of Laclede, Webster, Wright, Texas, Douglas, Taney, Ozark and Howell.

Twenty-second District—The counties of Phelps, Miller, Maries, Camden, Pulaski, Crawford and Dent.

Twenty-third District—The counties of Cape Girardeau, Mississippi, New Madrid, Pemiscot, Dunklin, Stoddard and Scott.

Twenty-fourth District—The counties of Iron, Madison, Bollinger, Wayne, Butler, Reynolds, Carter, Ripley, Oregon and Shannon.

Twenty-fifth District—The counties of Franklin, Gasconade and Osage.

Twenty-sixth District—The counties of Washington, Jefferson, St. Francois, Ste. Genevieve and Perry.

Twenty-eighth District—The counties of Cooper, Moniteau, Morgan and Cole. St. Louis county shall be divided into seven districts, numbered respectively as follows:

Twenty-seventh, Twenty-ninth, Thirtieth, Thirty-first, Thirty-second, Thirty-third and Thirty-fourth.

[The Forty-first General Assembly having adjourned without redistricting the State into Senatorial districts, that duty devolved upon the Governor, Secretary of State and Attorney-General by the Constitution (section 7, article IV), and they accordingly, on the 6th day of April, 1901, performed that duty, and divided the State into Senatorial districts, as follows:

First—The counties of Atchison, Gentry, Nodaway and Worth.

Second—Buchanan.

Third—Andrew, Clay, Clinton, DeKalb, Holt and Platte.

Fourth—Grundy, Harrison, Livingston, Mercer and Putnam.

Fifth and Seventh—Jackson.

Sixth—Chariton, Linn and Sullivan.

Eighth—Caldwell, Carroll, Daviess and Ray.

Ninth—Adair, Macon and Shelby.

Tenth—Boone, Callaway, Montgomery, St. Charles and Warren.

Eleventh—Audrain, Lincoln and Pike.

Twelfth—Clark, Knox, Lewis, Scotland and Schuyler.

Thirteenth—Marion, Monroe, Ralls and Randolph.

Fourteenth—Camden, Cooper, Howard, Moniteau and Morgan.

Fifteenth—Benton, Hickory, Pettis and Saline.

Sixteenth—Bates, Cedar, Henry and St. Clair.

Seventeenth—Cass, Johnson and Lafayette.

Eighteenth—Barry, Lawrence, McDonald and Newton.

Nineteenth—Christian, Dallas, Douglas, Ozark, Polk, Stone, Taney and Webster.

Twentieth—Barton, Dade, Greene and Vernon.

Twenty-first—Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Ripley and Wayne.

Twenty-second—Howell, Oregon, Shannon, Texas and Wright.

Twenty-third—Mississippi, New Madrid, Pemiscot, Scott and Stoddard.

Twenty-fourth—Crawford, Dent, Iron, Phelps, Reynolds and Washington.

Twenty-fifth—Franklin, Gasconade and St. Louis.

Twenty-sixth—Jefferson, Madison, Perry, St. Francois and Ste. Genevieve.

Twenty-seventh—Cole, Laclede, Maries, Miller, Osage and Pulaski.

Twenty-eighth—Jasper.

[Twenty-ninth, Thirtieth, Thirty-first, Thirty-second, Thirty-third and Thirty-fourth—City of St. Louis.]

Sec. 12. Members of General Assembly cannot hold other offices.—No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office under this State, or any municipality thereof; and no member of Congress or person holding any lucrative office under the United States, or this State, or any municipality thereof (militia officers, justices of the peace and notaries public excepted), shall be eligible to either house of the General Assembly, or remain a member thereof, after having accepted any such office or seat in either house of Congress.

[First clause is new; also the word "municipality." Const. 1865, Art. 4. Sec. 11.]

Sec. 13. Office vacated by removal.—If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

[Same as Const. 1865, Art. 4, Sec. 13.]

Sec. 14. Election to fill vacancy.—Writs of election to fill such vacancies as may occur in either house of the General Assembly shall be issued by the Governor.

[Same as Const. 1865, Art. 4, Sec. 14.]

Sec. 15. Oath of office, where administered, violation of.—Every Senator and Representative-elect, before entering upon the duties of his office, shall take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, that I will support the Constitution of the United States and of the State of Missouri, and faithfully perform the duties of my office; and that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or nonperformance of any act or duty pertaining to my office, other than the compensation allowed by law." The oath shall be administered in the halls of their respective houses, to the members thereof, by some judge of the Supreme Court, or the circuit court, or the county court of Cole county, or after the organization, by the presiding officer of either house, and shall be filed in the office of the Secretary of State. Any member of either house refusing to take said oath or affirmation shall be deemed to have thereby vacated his office, and any member convicted of having violated his oath or affirmation shall be deemed guilty of perjury, and be forever thereafter disqualified from holding any office of trust or profit in this State.

[New section.]

Sec. 16. Members, compensation of.*—The members of the General Assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be provided by law, not to exceed five dollars per day for the first seventy days of each session, and after that not to exceed one dollar per day for the remainder of the session, except the first session held under this Constitution, and during revising sessions, when they may receive five dollars per day for one hundred and twenty days, and one dollar per day for the remainder of such sessions. In addition to per diem, the members shall be entitled to receive traveling expenses or mileage; for any regular and extra session not greater than now provided by law; but no member shall be entitled to traveling expenses or mileage for any extra session that may be called within one day after an adjournment of a regular session. Committees of either house, or joint committees of both houses, appointed to examine the institutions of the State, other than

*Amendment to be submitted at election in 1908. (Laws 1907, p. 457.)

those at the seat of government, may receive their actual expenses, necessarily incurred while in the performance of such duty; the items of such expenses to be returned to the chairman of such committee, and by him certified to the State Auditor, before the same, or any part thereof, can be paid. Each member may receive at each regular session an additional sum of thirty dollars, which shall be in full for all stationery used in his official capacity, and all postage, and all other incidental expenses and perquisites; and no allowance or emoluments, for any purpose whatever, shall be made to or received by the members, or any member of either house, or for their use, out of the contingent fund or otherwise, except as herein expressly provided; and no allowance or emolument, for any purpose whatever, shall ever be paid to any officer, agent, servant or employe of either house of the General Assembly or of any committee thereof, except such per diem as may be provided for by law, not to exceed five dollars.

[New section, except the provision preceding the words "not to exceed five dollars per day." Const. 1865, Art. 4, Sec. 17.]

Sec. 17. Organization and general rules.—Each house shall appoint its own officers; shall be sole judge of the qualifications, election and returns of its own members; may determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all members elect, may expel a member; but no member shall be expelled a second time for the same cause.

[Substantially same as Const. 1865, Art. 4, Sec. 19.]

Sec. 18. Majority a quorum, absent members.—A majority of the whole number of members of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

[Const. 1865, Art. 4, Sec. 18.]

Sec. 19. Sessions must be public.—The sessions of each house shall be held with open doors, except in cases which may require secrecy.

[Const. 1865, Art. 4, Sec. 21.]

Sec. 20. Time of meeting—biennial terms.—The General Assembly elected in the year one thousand eight hundred and seventy-six shall meet on the first Wednesday after the first day of January, one thousand eight hundred and seventy-seven; and thereafter the General Assembly shall meet in regular session once only in every two years; and such meeting shall be on the first Wednesday after the first day of January next after the elections of the members thereof.

[The word "only," preceding the words "in every two years," is not in the Const. of 1865, Art. 4, Sec. 35.]

Sec. 21. Shall not adjourn for more than three days.—Every adjournment or recess taken by the General Assembly for more than three days shall have the effect of and be an adjournment *sine die*.

[New section.]

Sec. 22. Adjournment for three days or less.—Every adjournment or recess taken by the General Assembly for three days or less shall be construed as not interrupting the session at which they are had or taken, but as continuing the session for all the purposes mentioned in section sixteen of this article.

[New section.]

Sec. 23. Adjournment by consent.—Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two houses may be sitting.

[Const. 1865, Art. 4, Sec. 22.]

LEGISLATIVE PROCEEDINGS.

Sec. 24. The style of the laws of this State shall be: "Be it enacted by the General Assembly of the State of Missouri, as follows:"

[Const. 1865, Art. 4, Sec. 26.]

Sec. 25. Laws passed by bills, extent of amendments.—No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

[New section.]

Sec. 26. Origin of bills—must be read on three days.—Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house.

[See Const. 1865, Art. 4, Sec. 23.]

Sec. 27. Bills must be reported and printed.—No bill shall be considered for final passage unless the same has been reported upon by a committee and printed for the use of the members.

[New section.]

Sec. 28. Bills must contain but one subject—title.—No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and except bills passed under the third subdivision of section forty-four of this article) shall contain more than one subject, which shall be clearly expressed in its title.

[See Const. 1865, Art. 4, Sec. 32.]

Sec. 29. Amendments to be incorporated in bill and printed.—All amendments adopted by either house to a bill pending and originating in the same shall be incorporated with the bill by engrossment, and the bill as thus engrossed shall be printed for the use of the members before its final passage. The engrossing and printing shall be under the supervision of a committee, whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and that the printed copy furnished to the members is correct.

[New section.]

Sec. 30. Bill passed in one house, amended in the other, to be returned.—If a bill passed by either house be returned thereto, amended by the other, the house to which the same is returned shall cause the amendment or amendments so received to be printed under the same supervision as provided in the next preceding section for the use of the members before final action on such amendments.

[New section.]

Sec. 31. Bill, final vote on, yeas and nays.—No bill shall become a law, unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.

[Same in substance as Const. 1865, Art. 4, Sec. 24.]

Sec. 32. Amendments and reports.—No amendment to bills by one house shall be concurred in by the other, except by a vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journal.

[New section.]

Sec. 33. Act revived or re-enacted, how.—No act shall be revived or re-enacted by mere reference to the title thereof, but the same shall be set forth at length, as if it were an original act.

[Same as Const. 1865, Art. 4, Sec. 25.]

Sec. 34. Act amended, how.—No act shall be amended by providing that designated words thereof be stricken out, or that designated words be inserted, or that designated words be stricken out and others inserted in lieu thereof; but the words to be stricken out, or the words to be inserted, or the words to be stricken out and those inserted in lieu thereof, together with the act or section amended, shall be set forth in full as amended.

[Const. 1865, Art. 4, Sec. 25.]

Sec. 35. Motion to reconsider—bill on final passage.—When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the house proceeds to any other business.

[New section.]

Sec. 36. Laws take effect when.—No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal.

[New section.]

Sec. 37. Bills signed by presiding officers.—No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session; and before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that, if no objections be made, he will sign the same to the end that it may become

a law. The bill shall then be read at length, and if no objection be made, he shall, in presence of the house, in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal, and the bill immediately sent to the other house. When it reaches the other house, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect, as in the house in which it was first signed. If in either house any member shall object that any substitution, omission or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the house, or that any particular clause of this article of the Constitution has been violated in its passage, such objection shall be passed upon by the house, and if sustained, the presiding officer shall withhold his signature; but if such objection shall not be sustained, then any five members may embody the same, over their signatures, in a written protest, under oath, against the signing of the bill. Said protest, when offered in the house, shall be noted upon the journal, and the original shall be annexed to the bill to be considered by the Governor in connection therewith.

[New section. See Art. 5, Sec. 12.]

Sec. 38. Bills, approval of Governor.—When the bill has been signed, as provided for in the preceding section, it shall be the duty of the Secretary of the Senate, if the bill originated in the Senate, and of the Chief Clerk of the House of Representatives, if the bill originated in the House, to present the same in person, on the same day on which it was signed as aforesaid, to the Governor, and enter the fact upon the journal. Every bill presented to the Governor, and returned within ten days to the house in which the same originated, with the approval of the Governor, shall become a law, unless it be in violation of some provision of this Constitution.

[New section. See Art. 5, Sec. 12.]

Sec. 39. Bills returned without approval.—Every bill presented as aforesaid, but returned without the approval of the Governor and with his objection thereto, shall stand as reconsidered in the house to which it is returned. The house shall cause the objections of the Governor to be entered at large upon the journal, and proceed, at its convenience, to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the Governor thereto notwithstanding?" The vote upon this question shall be taken by yeas and nays, and the names entered upon the journal, and if two-thirds of all the members elected to the house vote in the affirmative, the presiding officer of that house shall certify that fact on the roll, attesting the same by his signature, and send the bill, with the objections of the Governor, to the other house, in which like proceedings shall be had in relation thereto, and if the bill receive a like majority of the votes of all the members elected to that house, the vote being taken by yeas and nays, the presiding officer thereof shall, in like manner, certify the fact upon the bill. The bill thus certified shall be deposited in the office of the Secretary of State, as an authentic act, and shall become a law in the same manner and with like effect as if it had received the approval of the Governor.

[See Const. 1865, Art. 5, Sec. 9.]

Sec. 40. Failure of Governor to approve or return bill—proceedings.—Whenever the Governor shall fail to perform his duty, as prescribed in section 12, Article V of this Constitution, in relation to any bill presented to him for his approval, the General Assembly may, by joint resolution, reciting the fact of such failure and the bill at length, direct the Secretary of State to enroll the same as an authentic act, in the archives of the State, and such enrollment shall have the same effect as an approval by the Governor. *Provided*, That such joint resolution shall not be submitted to the Governor for his approval.

[New section.]

Sec. 41. Laws—revision of.—Within five years after the adoption of this Constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested and promulgated in such manner as the General Assembly shall direct; and a like revision, digest and promulgation shall be made at the expiration of every subsequent period of ten years.

[New section.]

Sec. 42. Journal of each house published—yeas and nays noted.—Each house shall, from time to time, publish a journal of its proceedings and the yeas and nays on any question shall be taken and entered on the journal at the motion of any two members. Whenever the yeas and nays are demanded, the whole list of members shall be called, and the names of the absentees shall be noted and published in the journal.

[See Const. 1865, Art. 4, Sec. 20.]

LIMITATION ON LEGISLATIVE POWER.

Sec. 43. Appropriations, order of.—All revenue collected and moneys received by the State from any source whatsoever shall go into the treasury, and the General Assembly shall have no power to divert the same, or to permit money to be drawn from the treasury, except in pursuance of regular appropriations made by law. All appropriations of money by the successive General Assemblies shall be made in the following order:

First, For the payment of all interest upon the bonded debt of the State that may become due during the term for which each General Assembly is elected.

Second, For the benefit of the sinking fund, which shall not be less annually than two hundred and fifty thousand dollars.

Third, For free public school purposes.

Fourth, For the payment of the cost of assessing and collecting the revenue.

Fifth, For the payment of the civil list.

Sixth, For the support of the eleemosynary institutions of the State.

Seventh, For the pay of the General Assembly, and such other purposes not herein prohibited as it may deem necessary; but no General Assembly shall have power to make any appropriation of money for any purpose whatsoever, until the respective sums necessary for the purposes in this section specified have been set apart and appropriated, or to give priority in its action to a succeeding over a preceding item as above enumerated.

[New section. See Const. 1865, Art. 11, Sec. 6.]

Sec. 44. General Assembly not to contract debts except as herein.—The General Assembly shall have no power to contract or to authorize the contracting of any debt or liability on behalf of the State, or to issue bonds or other evidence of indebtedness thereof, except in the following cases:

First, In renewal of existing bonds, when they cannot be paid at maturity, out of the sinking fund or other resources.

Second, On the occurring of an unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred, upon the recommendation of the Governor first had, shall not exceed the sum of two hundred and fifty thousand dollars for any one year, to be paid in not more than two years from and after its creation.

Third, On the occurring of any unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred or to be incurred shall exceed the sum of two hundred and fifty thousand dollars for any one year, the General Assembly may submit an act providing for the loan, or for the contracting of the liability, and containing a provision for levying a tax sufficient to pay the interest and principal when they become due (the latter in not more than thirteen years from the date of its creation), to the qualified voters of the State, and when the act so submitted shall have been ratified by a two-thirds majority, at an election held for that purpose, due publication having been made of the provisions of the act for at least three months before such election, the act thus ratified shall be irrevocable until the debt thereby incurred shall be paid, principal and interest.

[New section.]

Sec. 45. State's credit not to be loaned.—The General Assembly shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State in aid of or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, That the General Assembly shall have the power to appropriate from funds in the State sinking fund, being the proceeds of the tax authorized under section 14 of article X of the Constitution, to an amount not exceeding one million dollars for the exhibition of the resources, products and industries of the State in the centennial celebration of the Louisiana Purchase in the city of St. Louis.

[Const. 1865, Art. 11, Sec. 13, modified. Section, as amended, adopted in 1900.]

Sec. 46. Public money, grant of prohibited.—The General Assembly shall have no power to make any grant, or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, That this shall not be so construed as to prevent the grant of aid in a case of public calamity.

[New section.]

Sec. 47. Municipalities, loaning credit of.—The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit, or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company: *Provided*, That this shall not be so construed as to prohibit the General Assembly from providing by law for authoriz-

ing the creation, maintenance and management of a fund for the pensioning of crippled and disabled firemen, and for the relief of the widows and minor children of deceased firemen, by such cities, villages or incorporated towns as may have an organized fire department—said fund to be taken from the municipal revenue of such cities, villages or incorporated towns.—(a)

[Const. 1865, Art. 11, Sec. 14, modified. Proviso adopted 1892.]

Sec. 48. Public officers, agents, etc., extra pay prohibited.—The General Assembly shall have no power to grant, or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

[New section.]

Sec. 49. State subscriptions prohibited.—The General Assembly shall have no power hereafter to subscribe or authorize the subscription of stock on behalf of the State, in any corporation or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

[Const. 1865, Art. 11, Sec. 13.]

Sec. 50. Liens on railroads, not to be released.—The General Assembly shall have no power to release or alienate the lien held by the State upon any railroad, or in anywise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

[See Const. 1865, Art. 11, Sec. 15.]

Sec. 51. Corporation debts, release prohibited.—The General Assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State, or to any county or other municipal corporation therein.

[New section.]

Sec. 52. War debt, payment of.—The General Assembly shall have no power to make any appropriation of money, or to issue any bonds or other evidences of indebtedness for the payment, or on account or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An act to audit and adjust the war debt of the State," approved March 19, 1874, or any act of a similar nature, until after the claims so audited shall have been presented to and paid by the Government of the United States to the State of Missouri.

[New Section.]

Sec. 53. Special and local laws prohibited.—The General Assembly shall not pass any local or special law:—(b)

Authorizing the creation, extension or impairing of liens:

Regulating the affairs of counties, cities, townships, wards or school districts:

Changing the names of persons or places.

Changing the venue in civil or criminal cases.

Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys:

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State:

Vacating roads, town plats, streets or alleys:

Relating to cemeteries, grave-yards or public grounds not of the State:

Authorizing the adoption or legitimation of children:

Locating or changing county seats:

Incorporating cities, towns or villages, or changing their charters:

For the opening and conducting of elections, or fixing or changing the places of voting:

Granting divorces:

Erecting new townships, or changing township lines, or the lines of school districts:

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts:

Changing the law of descent or succession:

Regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods

(a) See Statute and references under "Laws Specially Applicable to St. Louis." Ch. 10, Sec. 322 *et seq.*; also Rev. Code, Sec. 304.

(b) For cases holding what is or is not a special law hereunder, see first note under "Laws Specially Applicable to St. Louis."

for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate:

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables:

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes:

Fixing the rate of interest:

Affecting the estates of minors or persons under disability:

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:

Exempting property from taxation:

Regulating labor, trade, mining or manufacturing:

Creating corporations, or amending, renewing, extending or explaining the charter thereof:

Granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track:

Declaring any named person of age:

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their official duties, or their securities from liability:

Giving effect to informal or invalid wills or deeds:

Summoning or empaneling grand or petit juries:

For limitation of civil actions:

Legalizing the unauthorized or invalid acts of any officer or agent of the State, or of any county or municipality thereof. In all other cases where a general law can be made applicable, no local or special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject:

Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

[This section enlarged by new specifications. Const. 1865, Art. 4, Sec. 27.]

Sec. 54. Local and special laws, notice of.—No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the General Assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the General Assembly before such act shall be passed, and the notice shall be recited in the act according to its tenor.

[New Section.]

Sec. 55. Extra sessions, power limited.—The General Assembly shall have no power, when convened in extra session by the Governor, to act upon subjects other than those specially designated in the proclamation by which the session is called, or recommended by special message to its consideration by the Governor after it shall have been convened.

[See Const. 1865, Art. 5, Sec. 7.]

Sec. 56. Capital not to be removed.—The General Assembly shall have no power to remove the seat of government of this State from the City of Jefferson.

[See Const. 1865, Art. 11, Sec. 10.]

ARTICLE V.

EXECUTIVE DEPARTMENT.

Section 1. Executive officers, residence of.—The executive department shall consist of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools, all of whom, except the Lieutenant-Governor, shall reside at the Seat of Government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

[See Const. 1865, Art. 5, Sec. 16.]

Sec. 2. Terms of office—Governor and Treasurer ineligible to re-election—times of holding elections.—The term of office of the Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be four years from the second Monday of January next after their election, and until their successors are elected and qualified; and the Governor and State Treasurer shall be ineligible to re-election as their own successors. At the general election to be held in the year one thousand eight hundred and seventy-six, and every four years thereafter, all such officers, except the Superintendent of Public Schools, shall be elected, and the Superintend-

ent of Public Schools shall be elected at the general election in the year one thousand eight hundred and seventy-eight, and every four years thereafter.

[The term was two years under Const. of 1865, Art. 5, Secs. 3 and 16, except that of Superintendent of Public Schools. Art. 9, Sec. 3. Provision as to ineligibility is new.]

Sec. 3. Returns—tie, how determined.—The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed to the Speaker of the House of Representatives, who shall, immediately after the organization of the House, and before proceeding to other business, open and publish the same in the presence of a majority of each House of the General Assembly, who shall for that purpose assemble in the hall of the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes, the General Assembly shall, by joint vote, choose one of such persons for said office.

[See Const. 1865, Art. 5, Secs. 3 and 18.]

Sec. 4. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Missouri."

[Same as Const. 1865, Art. 5, Sec. 1.]

Sec. 5. Governor, qualifications.—The Governor shall be at least thirty-five years old, a male, and shall have been a citizen of the United States ten years, and a resident of this State seven years next before his election.

[Same as Const. 1865, Art. 5, Sec. 2, except the word "white" is here omitted.]

Sec. 6. Governor's duties.—The Governor shall take care that the laws are distributed and faithfully executed: and he shall be a conservator of the peace throughout the State.

[See Const. 1865, Art. 5, Sec. 6.]

Sec. 7. Governor, commander-in-chief of militia.—The Governor shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion; but he need not command in person unless directed so to do by a resolution of the General Assembly.

[Provision calling out militia is new. Const. 1865, Art. 5, Sec. 5.]

Sec. 8. Governor, grant pardons, report to General Assembly.—The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such condition and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall, at each session of the General Assembly, communicate to that body each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the commutation, pardon or reprieve, and the reason for granting the same.

[See Const. 1865, Art. 5, Sec. 6.]

Sec. 9. Governor may inform General Assembly, call extra sessions.—The Governor shall, from time to time, give to the General Assembly information relative to the state of the government, and shall recommend to its consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the General Assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary.

[Same as Const. 1865, Art. 5, Sec. 7. As to business of special session, see Art. 4, Sec. 55.]

Sec. 10. Governor's message—account for moneys, etc.—The Governor shall, at the commencement of each session of the General Assembly, and at the close of his term of office, give information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, in such manner as may be prescribed by law, for all moneys received and paid out by him from any funds subject to his order, with vouchers; and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

[New section.]

Sec. 11. Vacancy in office—Governor may fill.—When any office shall become vacant, the Governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected or appointed and qualified according to law.

[Art. 5, Sec. 8, Const. 1865.]

Sec. 12. Governor's duty as to bills presented to him.—The Governor shall consider all bills and joint resolutions, which, having been passed by both houses of the General Assembly, shall be presented to him. He shall, within ten days after the same shall have been presented to him, return to the house in which they respectively originated, all such bills and joint resolutions, with his approval in-

dorsed thereon, or accompanied by his objections: *Provided*, That if the General Assembly shall finally adjourn within ten days after such presentation, the Governor may, within thirty days thereafter, return such bills and resolutions to the office of the Secretary of State, with his approval or reasons for disapproval.

[See Art. 4, Secs. 37 and 38 of this Const., and Const. 1865, Art. 5, Sec. 9.]

Sec. 13. **He may object to part of a bill.**—If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more items while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the General Assembly be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If it be not in session, then he shall transmit the same within thirty days to the office of the Secretary of State, with his approval or reasons for disapproval.

[New section.]

Sec. 14. **Resolutions must be presented to Governor.**—Every resolution to which the concurrence of the Senate and House of Representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this Constitution, shall be presented to the Governor, and before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill? *Provided*, That no resolution shall have the effect to repeal, extend, alter or amend any law.

[Proviso is new. Const. 1865, Art. 5, Sec. 10.]

Sec. 15. **Lieutenant-Governor, qualifications and duties.**—The Lieutenant-Governor shall possess the same qualifications as the Governor, and by virtue of his office shall be President of the Senate. In committee of the whole he may debate all questions, and when there is an equal division he shall give the casting vote in the Senate, and also in joint vote of both houses.

[Const. 1865, Art. 5, Secs. 12 and 13.]

Sec. 16. **To perform duties of Governor, when.**—In case of death, conviction or impeachment, failure to qualify, resignation, absence from the State or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant-Governor.

[See Const. 1865, Art. 5, Sec. 14.]

Sec. 17. **Senate, President pro tempore—other persons to act as Governor, when.**—The Senate shall choose a president pro tempore to preside in cases of the absence or impeachment of the Lieutenant-Governor, or when he shall hold the office of Governor. If there be no Lieutenant-Governor, or the Lieutenant-Governor shall, for any of the causes specified in section sixteen of this article, become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Representatives, in the same manner and with the same powers and compensation as are prescribed in the case of the office devolving upon the Lieutenant-Governor.

[Const. 1865, Art. 5, Sec. 14.]

Sec. 18. **Lieutenant-Governor, etc., compensation.**—The Lieutenant-Governor or the President pro tempore of the Senate, while presiding in the Senate, shall receive the same compensation as shall be allowed the Speaker of the House of Representatives.

[Const. 1865, Art. 5, Sec. 15.]

Sec. 19. **Executive officers, qualifications.**—No person shall be eligible to the office of Secretary of State, State Auditor, State Treasurer, Attorney-General, or Superintendent of Public Schools, unless he be a male citizen of the United States and at least twenty-five years old, and shall have resided in this State at least five years next before his election.

[Const. 1865, Art. 5, Sec. 16, except as to Superintendent of Public Schools, who was required to have the qualifications of a State Senator. Art. 10, Sec. 3.]

Sec. 20. **Seal of the State.**—The Secretary of State shall be the custodian of the seal of the State, and authenticate therewith all official acts of the Governor, his approval of laws excepted. The said seal shall be called the "Great Seal of the State of Missouri," and the emblems and devices thereof, heretofore prescribed by law, shall not be subject to change.

[Const. 1865, Art. 5, Sec. 20.]

Sec. 21. **Secretary of State, duties of.**—The Secretary of State shall keep a register of the official acts of the Governor, and when necessary, shall attest

them, and lay copies of the same, together with copies of all papers relative thereto, before either house of the General Assembly whenever required to do so.

[Const. 1865, Art. 5, Sec. 21.]

Sec. 22. Executive officers' duties, accounts, institutions.—An account shall be kept by the officers of the Executive Department of all moneys and choses in action disbursed or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the Governor under oath. The Governor may at any time require information, in writing, under oath, from the officers of the Executive Department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions; which information, when so required, shall be furnished by such officers and managers, and any officer or manager who at any time shall make a false report, shall be guilty of perjury and punished accordingly.

[New section.]

Sec. 23. Governor shall commission officers.—The Governor shall commission all officers not otherwise provided for by law. All commissions shall run in the name and by the authority of the State of Missouri, be signed by the Governor, sealed with the Great Seal of the State of Missouri, and attested by the Secretary of State.

[Const. 1865, Art. 5, Sec. 25.]

Sec. 24. Officers, salaries and fees not to be changed.—The officers named in this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms; and they shall not, after the expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. All fees that may hereafter be payable by law for any service performed by any officer provided for in this article shall be paid in advance into the State treasury.

[New section.]

Sec. 25. Contested elections of executive officers.—Contested elections of Governor and Lieutenant-Governor shall be decided by a joint vote of both houses of the General Assembly, in such manner as may be provided by law; and contested elections of Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be decided before such tribunal and in such manner as may be provided by law.

[Const. 1865, Art. 5, Secs. 18 and 19.]

ARTICLE VI.

JUDICIAL DEPARTMENT.*

Section 1. Judicial power of State, where vested.—The judicial power of the State, as to matters of law and equity, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, the St. Louis Court of Appeals, circuit courts, criminal courts, probate courts, county courts and municipal corporation courts.

[See Const. 1865, Art. 6, Sec. 1. Also amendment of 1890, at close of this article.]

Sec. 2. Supreme Court, jurisdiction of.—The Supreme Court, except in cases otherwise directed by this Constitution, shall have appellate jurisdiction only, which shall be coextensive with the State under the restrictions and limitations in this Constitution provided.

[See Const. 1865, Art. 6, Sec. 2.]

Sec. 3. Supreme Court, superintending control of.—The Supreme Court shall have a general superintending control over all inferior courts. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari and other original remedial writs, and to hear and determine the same.

[Const. 1865, Art. 6, Sec. 3.]

Sec. 4. Supreme Court judges, term—Chief Justice.—The judges of the Supreme Court shall hold office for the term of ten years. The judge oldest in commission shall be Chief Justice of the Court; and if there be more than one commission of the same date, the court may select the Chief Justice from the judges holding the same.

[See Const. 1865, Art. 6, Sec. 6.]

Sec. 5. Judges, number of—quorum—duties—election.—The Supreme Court shall consist of five judges, any three of whom shall constitute a quorum; and said judges shall be conservators of the peace throughout the State, and shall be elected by the qualified voters thereof. (a)

[Const. 1865, Art. 6, Sec. 4. Amended, 1890, increasing number and creating two divisions. See amendment at end of article.]

Sec. 6. Judges, qualifications.—The judges of the Supreme Court shall be citizens of the United States, not less than thirty years old, and shall have been

(a) See constitutional amendment at end of this article.

*Proposed amendment hereto to be voted at in election of 1908. (Laws 1907, p. 458.)

citizens of this State for five years next preceding their election or appointment, and shall be learned in the law.

[“And shall be learned in the law” is new. Const. 1865, Art. 6, Sec. 18.]

Sec. 7. Judges, terms—commencement—appointment.—The full terms of the judges of the Supreme Court shall commence on the first day of January next ensuing their election, and those elected to fill any vacancy shall also enter upon the discharge of their duties on the first day of January next ensuing such election. Those appointed shall enter upon the discharge of their duties as soon as qualified.

[Commencement of term same as Const. 1865, Art. 6, Sec. 7. See amendment at end of this article.]

Sec. 8. Present judges, terms.—The present judges of the Supreme Court shall remain in office until the expiration of their respective terms of office. To fill their places as their terms expire, one judge shall be elected at the general election in eighteen hundred and seventy-six, and one every two years thereafter.

[Provision for election of one judge every two years same as Const. 1865, Art. 6, Sec. 7. See amendment at end of this article.]

Sec. 9. Supreme Court, time and place of holding.—The Supreme Court shall be held at the Seat of Government at such times as may be prescribed by law; and until otherwise directed by law, the terms of said court shall commence on the third Tuesdays in October and April of each year.

[New section. See Const. 1865, Art. 6, Sec. 5.]

Sec. 10. Supreme Court, accommodations.—The State shall provide a suitable court room at the Seat of Government, in which the Supreme Court shall hold its sessions; also a clerk's office, furnished offices for the judges, and the use of the State Library.

[New section.]

Sec. 11. Judges divided in opinion.—If, in any cause pending in the Supreme Court, or the St. Louis Court of Appeals, the judges sitting shall be equally divided in opinion, no judgment shall be entered therein based on such division; but the parties to the cause may agree upon some person, learned in the law, to act as special judge in the cause, who shall therein sit with the Court, and give decision in the same manner and with the same effect as one of the judges. If the parties cannot agree upon a special judge, the court shall appoint one.

[Same as Const. 1865, Art. 6, Sec. 10. See amendment at end of this article.]

Sec. 12. St. Louis Court of Appeals—jurisdiction—appeals to Supreme Court.—There is hereby established in the city of St. Louis an Appellate Court, to be known as the “St. Louis Court of Appeals,” the jurisdiction of which shall be coextensive with the city of St. Louis and the counties of St. Louis, St. Charles, Lincoln and Warren. Said court shall have power to issue writs of *habeas corpus*, *quo warranto*, *mandamus*, *certiorari*, and other original remedial writs, and to hear and determine the same; and shall have a superintending control over all inferior courts of record in said counties. Appeals shall lie from the decisions of the St. Louis Court of Appeals to the Supreme Court, and writs of error may issue from the Supreme Court to said court in the following cases only: In all cases where the amount in dispute, exclusive of costs, exceeds the sum of two thousand five hundred dollars; in cases involving the construction of the Constitution of the United States or of this State; in cases where the validity of a treaty or statute of or authority exercised under the United States is drawn in question; in cases involving the construction of the revenue laws of this State, or the title to any office under this State; in cases involving title to real estate; in cases where a county or other political subdivision of the State or any State officer is a party, and in all cases of felony.

[See amendment at end of this article, establishing Kansas City Court of Appeals and extending jurisdiction of St. Louis Court of Appeals.]

[New section.]

Sec. 13. Number, election, qualification and pay of judges.—The St. Louis Court of Appeals shall consist of three judges, to be elected by the qualified voters of the city of St. Louis, and the counties of St. Louis, St. Charles, Lincoln and Warren, who shall hold their offices for the period of twelve years. They shall be residents of the district composed of said counties, shall possess the same qualifications as judges of the Supreme Court, and each shall receive the same compensation as is now or may be provided by law for the judges of the circuit court of St. Louis county, and be paid from the same sources: *Provided*, That each of said counties shall pay its proportional part of the same, according to its taxable property.

[New section.]

Sec. 14. Judges, duties—quorum—terms of court.—The judges of said court shall be conservators of the peace throughout said counties. Any two of said judges shall constitute a quorum. There shall be two terms of said court to be

held each year, on the first Mondays of March and October, and the first term of said court shall be held on the first Monday in January, 1876.

[New section.]

Sec. 15. Opinions of court—rules of practice.—The opinions of said court shall be in writing, and shall be filed in the cases in which they shall be respectively made, and become parts of their record; and all laws relating to the practice in the Supreme Court shall apply to this court, so far as the same may be applicable.

[New section.]

Sec. 16. Terms of first judges—presiding judge.—At the first general election held in said city and counties after the adoption of this Constitution, three judges of said court shall be elected, who shall determine by lot the duration of their several terms of office, which shall be respectively four, eight and twelve years, and certify the result to the Secretary of State; and every four years thereafter one judge of said court shall be elected to hold office for the term of twelve years. The term of office of such judges shall begin on the first Monday in January next ensuing their election. The judge having the oldest license to practice law in this State shall be the presiding judge of said court.

[New section.]

Sec. 17. Court of Appeals, judges—appointment of.—Upon the adoption of this Constitution the Governor shall appoint three judges for said court, who shall hold their offices until the first Monday of January, eighteen hundred and seventy-seven, and until their successors shall be duly qualified.

[New section.]

Sec. 18. Court of Appeals, clerk.—The clerk of the Supreme Court of St. Louis shall be the clerk of the St. Louis Court of Appeals until the expiration of the term for which he was appointed clerk of the Supreme Court, and until his successor shall be duly qualified.

[New section.]

Sec. 19. Cases pending in Supreme Court at St. Louis.—All cases which may be pending in the Supreme Court at St. Louis at the time of the adoption of this Constitution, which by its terms would come within the final appellate jurisdiction of the St. Louis Court of Appeals, shall be certified and transferred to the St. Louis Court of Appeals, to be heard and determined by said court.

[New section.]

Sec. 20. Court of Appeals, when cases are triable in.—All cases coming to said court by appeal, or writ of error, shall be triable at the expiration of fifteen days from the filing of the transcript in the office of the clerk of said court.

[New Section.]

Sec. 21. Supreme Court, clerks and records of.—Upon the adoption of this Constitution, and after the close of the next regular terms of the Supreme Court at St. Louis and St. Joseph, as now established by law, the office of the clerk of the Supreme Court at St. Louis and St. Joseph shall be vacated, and said clerks shall transmit to the clerk of the Supreme Court at Jefferson City all the books, records, documents, transcripts and papers belonging to their respective offices, except those required by section nineteen of this article to be turned over to the St. Louis Court of Appeals; and said records, documents, transcripts and papers shall become part of the records, documents, transcripts and papers of said Supreme Court at Jefferson City, and said court shall hear and determine all the cases thus transferred as other cases.

[New Section.]

Sec. 22. Circuit court, jurisdiction and terms.—The circuit court shall have jurisdiction over all criminal cases not otherwise provided for by law; exclusive original jurisdiction in all civil cases not otherwise provided for; and such concurrent jurisdiction with and appellate jurisdiction from inferior tribunals and justices of the peace as is or may be provided by law. It shall hold its terms at such times and places in each county as may be by law directed; but at least two terms shall be held every year in each county.

[Const. 1865, Art. 6, Sec. 13. Last clause is new.]

Sec. 23. Circuit court, superintending control of.—The circuit court shall exercise a superintending control over criminal courts, probate courts, county courts, municipal corporation courts, justices of the peace, and all inferior tribunals in each county in their respective circuits.

[Const. 1865, except enumeration of courts, Art. 6, Sec. 21.]

Sec. 24. Circuits may be changed or abolished.—The State, except as otherwise provided in this Constitution, shall be divided into convenient circuits of contiguous counties, in each of which circuits one circuit judge shall be elected; and such circuits may be changed, enlarged, diminished or abolished, from time to time, as public convenience may require; and whenever a circuit shall be abolished, the office of the judge of such circuit shall cease.

[See Const. 1865, Art. 6, Sec. 14.]

Sec. 25. Circuit judges, terms and duties.—The judges of the circuit court shall be elected by the qualified voters of each circuit; shall hold their offices for the term of six years, and shall reside in and be conservators of the peace within their respective circuits.

[Const. 1865, Art. 6, Sec. 14.]

Sec. 26. Circuit judges, qualifications.—No person shall be eligible to the office of judge of the circuit court who shall not have attained the age of thirty years, been a citizen of the United States five years, a qualified voter of this State for three years, and who shall not be a resident of the circuit in which he may be elected or appointed.

[Const. 1865, Art. 6, Sec. 18. Last clause is new.]

Sec. 27.—Circuit court of St. Louis County—jurisdiction of Court of Appeals.—The circuit court of St. Louis county shall be composed of five judges, and such additional number as the General Assembly may from time to time provide. Each of said judges shall sit separately for the trial of causes and the transaction of business in special term. The judges of said circuit court may sit in general term, for the purpose of making rules of court, and for the transaction of such other business as may be provided by law, at such time as they may determine, but shall have no power to review any order, decision or proceeding of the court in special term. The St. Louis Court of Appeals shall have exclusive jurisdiction of all appeals from and writs of error to the circuit courts of St. Charles, Lincoln and Warren counties, and the circuit court of St. Louis county, in special term, and all courts of record having criminal jurisdiction in said counties.

[New provision. Const. 1865, Art. 6, Sec. 15. See amendment of 1884, following this article.]

Sec. 28. Additional judges, provision for.—In any circuit composed of a single county, the General Assembly may, from time to time, provide for one or more additional judges, as the business shall require; each of whom shall separately try cases and perform all other duties imposed upon circuit judges.

[New section.]

Sec. 29. Vacancy in office, disability, etc.—If there be a vacancy in the office of judge of any circuit, or if the judge be sick, absent, or from any cause unable to hold any term or part of term of court, in any county in his circuit, such term or part of term of court may be held by a judge of any other circuit; and at the request of the judge of any circuit, any term of court or part of term in his circuit may be held by the judge of any other circuit, and in all such cases, or in any case where the judge cannot preside, the General Assembly shall make such additional provision for holding court as may be found necessary.

[Const. 1865, Art. 6, Sec. 17. "All such cases," etc., is new.]

Sec. 30. Judges, election of—ties and contests.—The election of judges of all courts of record shall be held as is or may be provided by law, and in case of a tie or contested election between the candidates, the same shall be determined as prescribed by law.

[Const. 1865, Art. 6, Sec. 14.]

Sec. 31. Criminal courts.—The General Assembly shall have no power to establish criminal courts, except in counties having a population exceeding fifty thousand.

[See Const. 1865, Art. 6, Sec. 1.]

Sec. 32. Judges, vacancy, how filled.—In case the office of judge of any court of record become vacant by death, resignation, removal, failure to qualify, or otherwise, such vacancy shall be filled in the manner provided by law.

[Const. 1865, Art. 6, Sec. 8, 14, modified.]

Sec. 33. Judges, salaries not to be increased or diminished.—The judges of the Supreme, Appellate and Circuit courts, and of all other courts of record receiving a salary, shall, at stated times, receive such compensation for their services as is or may be prescribed by law; but it shall not be increased or diminished during the period for which they were elected.

[Const. 1865, Art. 6, Sec. 20, modified.]

Sec. 34. Probate courts.—The General Assembly shall establish in every county a probate court, which shall be a court of record, and consist of one judge, who shall be elected. Said court shall have jurisdiction over all matters pertaining to probate business, to granting letters testamentary and of administration, the appointment of guardians and curators of minors and persons of unsound mind, settling the accounts of executors, administrators, curators and guardians and the sale or leasing of lands by administrators, curators and guardians; and also jurisdiction over all matters relating to apprentices: *Provided*, That until the General Assembly shall provide by law for a uniform system of probate

courts, the jurisdiction of probate courts heretofore established shall remain as now provided by law. (p)

[New section.]

Sec. 35. Probate court, jurisdiction, practice and clerks.—Probate courts shall be uniform in their organization, jurisdiction, duties and practice, except that a separate clerk may be provided for, or the judge may be required to act, *ex officio*, as his own clerk.

[New section.]

Sec. 36. County courts.—In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law.

[Const. 1865, Art. 6, Sec. 23, modified.]

Sec. 37. Justices of the peace.—In each county there shall be appointed, or elected, as many justices of the peace as the public good may require, whose powers, duties and duration in office shall be regulated by law. (s)

[Const. 1865, Art. 6, Sec. 25.]

Sec. 38. Writs and indictments.—All writs and process shall run and all prosecutions shall be conducted in the name of the "State of Missouri;" all writs shall be attested by the clerk of the court from which they shall be issued; and all indictments shall conclude, "against the peace and dignity of the State."

[Const. 1865, Art. 6, Sec. 26.]

Sec. 39. Clerks of courts.—The St. Louis Court of Appeals and Supreme Court shall appoint their own clerks. The clerks of all other courts of record shall be elective, for such terms and in such manner as may be directed by law: *Provided*, That the term of office of no existing clerk of any court of record not abolished by this Constitution, shall be affected by such law.

[Const. 1865, Art. 6, Sec. 22, modified.]

Sec. 40. Clerks, election of—ties and contests.—In case there be a tie or a contested election between candidates for clerk of any court of record, the same shall be determined in such manner as may be directed by law.

[New section.]

Sec. 41. Judge, removal for inability.—In case of the inability of any judge of a court of record to discharge the duties of his office with efficiency, by reason of continued sickness, or physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each house concurring, with the approval of the Governor, to remove such judge from office; but each house shall state on its respective journal the cause for which it shall wish his removal, and give him notice thereof, and he shall have the right to be heard in his defense, in such manner as the General Assembly shall by law direct.

[New section.]

Sec. 42. Existing courts to continue.—All courts now existing in this State, not named or provided for in this Constitution, shall continue until the expiration of the terms of office of the several judges; and as such terms expire, the business of said courts shall vest in the court having jurisdiction thereof in the counties where said courts now exist, and all the records and papers shall be transferred to the proper courts.

[New section.]

Sec. 43. Supreme Court, what opinions to be published.—The Supreme Court of the State shall designate what opinions delivered by the Court, or the judges thereof, may be printed at the expense of the State; and the General Assembly shall make no provision for payment by the State for the publication of any case decided by said court not so designated.

[New section.]

Sec. 44. Judicial decisions free for publication.—All judicial decisions in this State shall be free for publication by any person.

[New section.]

COURTS OF APPEALS.

[The following amendment to the Constitution extending the jurisdiction of the St. Louis Court of Appeals, and establishing the Kansas City Court of Appeals, was submitted to the qualified voters by concurrent resolution, approved March 29, 1883, and was adopted at the general election held on the Tuesday next following the first Monday in November, 1884.] (Laws 1883, p. 215.)

(p) Probate Courts in St. Louis: See *Henderson vs. Koenig*, 168 Mo. 356.

(s) Justices of the Peace in St. Louis: See *State ex rel. vs. Walton*, 69 Mo. 556; *Spaulding vs. Brady*, 128 Mo. 653.

Section 1. St. Louis Court of Appeals, extended jurisdiction.—The jurisdiction of the St. Louis Court of Appeals is hereby extended so as to be coextensive with the counties of Monroe, Shelby, Knox, Scotland, Clark, Lewis, Marion, Ralls, Pike, Lincoln, Warren, St. Charles, St. Louis, Jefferson, Ste. Genevieve, Perry, Cape Girardeau, Scott, Mississippi, New Madrid, Pemiscot, Dunklin, Stoddard, Wayne, Bollinger, Madison, St. Francois, Washington, Franklin, Crawford, Iron, Reynolds, Carter, Butler, Ripley, Oregon, Shannon, Dent, Phelps, Pulaski, Texas, Howell, Ozark, Douglas, Wright, Laclede, Webster, Christian, Taney, Stone, Greene, Lawrence, Barry, Newton and McDonald, as well as the city of St. Louis; and each judge thereof, when hereafter elected, shall be elected by the qualified voters of the counties and of the city under the jurisdiction of said court, and shall be a resident of the said territorial appellate district.

[By Act of 1889, Montgomery county, and by Act of 1893, Audrain county are now included in the St. Louis Court of Appeals district.]

Sec. 2. Kansas City Court of Appeals, jurisdiction, terms, judges.—There is hereby established at Kansas City an appellate court, to be known as the Kansas City Court of Appeals, the jurisdiction of which shall be coextensive with all the counties in the State except those embraced in the jurisdiction of the St. Louis Court of Appeals. There shall be held in each year two terms of said Kansas City Court of Appeals, one on the first Monday of March and one on the first Monday of October. The Kansas City Court of Appeals shall consist of three judges, who shall be elected by the qualified voters of the counties under the jurisdiction of said court, and shall be residents of said territorial appellate district.

Sec. 3. Court of Appeals, additional may be established.—The General Assembly shall have power by law to create one additional court of appeals, with a new district therefor; to change the limits of the appellate districts, and the names of the courts of appeals, designating the districts by numbers or otherwise; to change the time of holding the terms of said courts; to increase or diminish the pecuniary limit of the jurisdiction of the courts of appeals; to provide for the transfer of cases from one court of appeals to another court of appeals; to provide for the transfer of cases from a court of appeals to the Supreme Court, and to provide for the hearing and determination of such cases by the courts to which they may be transferred.

Sec. 4. Kansas City Court of Appeals—first judges, appointment and election—law applicable to.—The first term of said Kansas City Court of Appeals shall be held on the first Monday of March in the year 1885, and the first judges thereof shall, upon the adoption of this amendment, be appointed by the Governor of said State for the term of four years each, beginning on the first day of January, 1885, and at the general election in the year 1888, the first election for the judges of said court shall be held, and the provisions of the Constitution of the State concerning the organization, the judges, the powers, the jurisdiction and proceedings of the St. Louis Court of Appeals as herein amended, shall in all appropriate respects apply to the Kansas City Court of Appeals, and to such additional court of appeals as may be by law created.

Sec. 5. Supreme Court, exclusive appellate jurisdiction of.—In all causes or proceedings reviewable by the Supreme Court, writs of error shall run from the Supreme Court directly to the circuit courts and to courts having the jurisdiction pertaining to circuit courts, and in all such causes or proceedings, appeals shall lie from such trial courts directly to the Supreme Court, and the Supreme Court shall have exclusive jurisdiction of such writs of error and appeals, and shall in all such cases exclusively exercise superintending control over such trial courts.

Sec. 6. Courts of Appeals, cases may be certified to Supreme Court, when.—When any one of said courts of appeals shall in any cause or proceeding render a decision which any one of the judges therein sitting shall deem contrary to any previous decision of any one of said courts of appeals, or of the Supreme Court, the said Court of Appeals must, of its own motion, pending the same term and not afterward, certify and transfer said cause or proceeding and the original transcript therein to the Supreme Court, and thereupon the Supreme Court must rehear and determine said cause or proceeding, as in case of jurisdiction obtained by ordinary appellate process; and the last previous rulings of the Supreme Court on any question of law or equity shall, in all cases, be controlling authority in said courts of appeals.

Sec. 7. Cases now pending in Supreme Court transferred to Kansas City Court of Appeals.—All cases which may be pending in the Supreme Court at the time of the adoption of this amendment, which have not been submitted, and which by its terms would come within the territorial appellate jurisdiction of the Kansas City Court of Appeals, shall be certified and transferred to such court to be heard and determined by it.

Sec. 8. Supreme Court, superintending control of.—The Supreme Court shall have superintending control over the courts of appeals by *mandamus*, prohibition and *certiorari*.

Sec. 9. Kansas City Court of Appeals, court-room and offices.—The State shall provide a suitable court-room at Kansas City, in which the Kansas City Court of Appeals shall hold its sessions; also a clerk's office and furnished offices for the judges.

Sec. 10. Judges of Courts of Appeals—salaries, how paid.—The judges of the Kansas City Court of Appeals, and of such additional court of appeals as may be created by law, shall each annually receive a salary of three thousand five hundred dollars per annum, which, together with the entire salaries of the judges of the St. Louis Court of Appeals, shall be paid out of the State treasury, as the salaries of the judges of the Supreme Court are now paid, unless otherwise provided by law.

Sec. 11. Constitution, inconsistent provisions rescinded.—All provisions of the Constitution of this State, and all laws of this State which are inconsistent with this amendment, shall, so far as inconsistent, upon its adoption, be forever rescinded and of no effect.

SUPREME COURT.

[The following amendment to the Constitution increasing the number of judges of the Supreme Court from four to seven and creating two divisions of the court, was submitted to the qualified voters by joint and concurrent resolution, and was adopted at the general election held on the Tuesday next following the first Monday in November, 1890.]

Section 1. Number of judges—divisions of court—business, how divided—quorum.—The Supreme Court shall consist of seven judges, and, after the first Monday in January, 1891, shall be divided into two divisions, as follows: One division to consist of four judges of the court and to be known as division number one, the other to consist of the remaining judges and to be known as division number two. The divisions shall sit separately for the hearing and disposition of causes and matters pertaining thereto, and shall have concurrent jurisdiction of all matters and causes in the Supreme Court, except that division number two shall have exclusive cognizance of all criminal cases pending in said court: *Provided*, That a cause therein may be transferred to the court as provided in section four of this amendment. The division of business of which said divisions have concurrent jurisdiction shall be made as the Supreme Court may determine. A majority of the judges of a division shall constitute a quorum thereof, and all orders, judgments and decrees of either division, as to causes and matters pending before it, shall have the force and effect of those of the court.

Sec. 2. Appointment and election of judges—term—divisions, how constituted—chief justice—presiding judges.—Upon the adoption of this amendment, the Governor shall appoint two additional judges of the Supreme Court, who shall hold their offices until the first Monday in January, 1893, and at the general election in the year 1892 their successors shall be elected, who shall hold their offices for the term of ten years, as other judges of the Supreme Court. The two judges appointed by the Governor, together with the judge elected at the general election in the year 1890, shall constitute division number two, and the remaining judges shall constitute division number one. The court shall elect its chief justice and each division a presiding judge thereof.

Sec. 3. Business divided, how—practice—opinions—original writs.—The Supreme Court shall assign to each division the causes and matters to be heard by it, of which assignment due public notice shall be given, and all laws relating to practice in the Supreme Court, as well as the rules of the Supreme Court, shall apply to each division so far as they may be applicable thereto. The opinion of each division shall be in writing, and shall be filed in the causes in which they shall be respectively made during the term at which the cause is submitted, and such opinions shall be a part of the records of the Supreme Court. Each division shall have authority to issue the original writs and exercise the powers enumerated in section three of article six of the Constitution.

Sec. 4. Case transferred to court en banc, when.—When the judges of a division are equally divided in opinion in a cause, or when a judge of a division dissents from the opinion therein, or when a federal question is involved, the cause, on the application of the losing party, shall be transferred to the court for its decision; or when a division in which a cause is pending shall so order, the cause shall be transferred to the court for its decision.

Sec. 5. Court may dispense with divisions—may re-divide.—Whenever in the opinion of the Supreme Court the state of its docket with reference to the speedy disposition of the business of the court will justify dispensing with the divisions hereinbefore provided, the court shall dispense therewith and the court shall thereafter hear and determine all causes pending in it: *Provided, however*, That the court shall have the power to again divide itself into two divisions, in like manner and with like power and effect as hereinbefore provided, whenever in the opinion of six judges thereof, entered of record, the condition of its docket with reference to the speedy disposition of the business of the court so require;

and in such division the four judges oldest in commission shall constitute division number one, and the remaining judges division number two.

Sec. 6. **Repealing clause.**—All provisions of the Constitution of the State and all laws thereof not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

ARTICLE VII.

IMPEACHMENTS.

Section 1. **Officers liable to.**—The Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Public Schools and Judges of the Supreme, Circuit and Criminal Courts, and of the St. Louis Court of Appeals, shall be liable to impeachment for high crimes or misdemeanors, and for misconduct, habits of drunkenness, or oppression in office.

[See Const. 1865, Art. 7, Sec. 1.]

Sec. 2. **House impeaches, Senate tries—proceedings—punishment.**—The House of Representatives shall have the sole power of impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the Senators shall be sworn to do justice according to law and evidence. When the Governor of the State is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators present. But judgment in such cases shall not extend any further than removal from office, and disqualification to hold any office of honor, trust or profit under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

[Const. 1865, Art. 7, Secs. 1 and 2. Last sentence is new.]

ARTICLE VIII.

SUFFRAGE AND ELECTIONS.

Section 1. **General elections, when held.**—The general election shall be held biennially on the Tuesday next following the first Monday in November. The first general election under this Constitution shall be held on that day, in the year one thousand eight hundred and seventy-six; but the General Assembly may, by law, fix a different day—two-thirds of all the members of each house consenting thereto.

[Same in substance as Const. 1865, Art. 2, Sec. 2.]

Sec. 2. **Electors, qualifications of.**—Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

First, He shall have resided in the State one year immediately preceding the election at which he offers to vote.

Second, He shall have resided in the county, city or town where he shall offer to vote at least sixty days immediately preceding the election.

[Const. 1865, Art. 2, Sec. 18.]

Sec. 3. **Elections, how conducted and contested.**—All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received; and the number recorded by the election officers on the list of voters, opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any voter shall have voted, unless required to do as witnesses in a judicial proceeding: *Provided*, That in all cases of contested elections the ballots cast may be counted, compared with the list of voters, and examined under such safeguards and regulations, as may be prescribed by law.

[First provision same as Const. 1865, Art. 2, Sec. 1. Remainder new.]

Sec. 4. **Voters free from arrest, when.**—Voters shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

[Same in substance as Const. 1865, Art. 2, Sec. 22.]

Sec. 5. **Registration in cities and counties.**—The General Assembly shall provide, by law, for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants, and may provide for such registration in cities having a population exceeding twenty-five thousand inhabitants and not exceeding one hundred thousand, but not otherwise.

[See Const. 1865, Art. 2, Sec. 4.]

Sec. 6. Elections *viva voce*, when.—All elections, by persons in a representative capacity, shall be *viva voce*.

[New section.]

Sec. 7. Residence as voter not gained or lost, when.—For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence while employed in the service, either civil or military, of this State, or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or of the high seas, nor while a student of any institution of learning, nor while kept in a poor house or other asylum at public expense, nor while confined in public prison.

[See Const. 1865, Art. 2, Sec. 20.]

Sec. 8. Who disqualified as voters.—No person, while kept at any poor-house or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this State.

[New section.]

Sec. 9. Contested elections, trial of, etc.—The trial and determination of contested elections of all public officers, whether State, judicial, municipal or local, except Governor and Lieutenant-Governor, shall be by the courts of law, or by one or more of the judges thereof. The General Assembly shall, by general law, designate the court or judge by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law, assigning jurisdiction or regulating its exercises, shall apply to any contest arising out of any election held before said law shall take effect.

[See Const. 1865, Art. 2, Secs. 19 and 24.]

Sec. 10. Criminals may be disqualified.—The General Assembly may enact laws excluding from the right of voting all persons convicted of felony or other infamous crime, or misdemeanor connected with the exercise of the right of suffrage.

[New section. See Const. 1865, Art. 2, Sec. 26.]

Sec. 11. Officers, soldiers and marines disqualified.—No officer, soldier or marine in the regular army or navy of the United States shall be entitled to vote at any election in this State.

[Const. 1865, Art. 2, Sec. 16.]

Sec. 12. Aliens not to be appointed or elected.—No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding his election or appointment.

[New section.]

ARTICLE IX.

COUNTIES, CITIES AND TOWNS.

Section 1. Counties now existing recognized.—The several counties of this State, as they now exist, are hereby recognized as legal subdivisions of the State. (j)

[New section.]

Sec. 2. County seats, removal of, when submitted.—The General Assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law; and no county seat shall be removed unless two-thirds of the qualified voters of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in five years. All additions to a town which is a county seat shall be included, considered and regarded as part of the county seat.

[Const. 1865, Art. 4, Sec. 30, modified.]

Sec. 3. New counties, divisions of counties by vote, etc.—The General Assembly shall have no power to establish any new county with a territory of less than four hundred and ten square miles, nor to reduce any county now established to a less area or less population than required for a ratio of representation existing at the time; but when a new county is formed having a population less than a ratio of representation, it shall be attached for representative purposes to the county from which the greatest amount of territory is taken until such ratio shall be obtained. No county shall be divided or have any portion stricken therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the qualified voters of the county or counties thus affected, voting on the question, shall vote therefor; nor shall any new county be established, any line of which shall run within ten miles of the then existing county seat of any county. In all cases of the establishment of any new county, the new county shall be held for and obliged to pay its ratable proportion of all the liabilities then existing of the county or counties from which said new county shall be formed.

[Const. 1865, Art. 4, Sec. 31, modified.]

Sec. 4. Counties, part stricken off, how.—No part of the territory of any county shall be stricken off and added to an adjoining county without submitting

(j) City of St. Louis, see: State ex rel. vs. Finn, 4 Mo. app, 347; as to St. Louis being a political sub-division of the State, see note to Charter, Art. XVI, Sec. 6.

the question to the qualified voters of the counties immediately interested, nor unless a majority of all the qualified voters of the counties thus affected, voting on the question, shall vote therefor. When any part of a county is stricken off and attached to another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it is taken.

[New section.]

Sec. 5. New county, liability of.—When any new county, formed from contiguous territory taken from older counties, or when any county to which territory shall be added taken from an adjoining county shall fail to pay the proportion of indebtedness of such territory to the county or counties from which it is taken, then it may be lawful for any county from which such territory has been taken to levy and collect, by taxation, the due proportion of indebtedness of such territory, in the same manner as if the territory had not been stricken off.

[New section.]

Sec. 6. Municipalities not to subscribe to capital stock of corporations.—No county, township, city or other municipality shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation or donation, or loan its credit to or in aid of any such corporation or association, or to or in aid of any college or institution of learning or other institution, whether created for or to be controlled by the State or others. All authority heretofore conferred for any of the purposes aforesaid by the General Assembly, or by the charter of any corporation, is hereby repealed: *Provided, however,* That nothing in this Constitution contained shall affect the right of any such municipality to make such subscription, where the same has been authorized under existing laws by a vote of the people of such municipality prior to its adoption, or to prevent the issue of renewal bonds, or the use of such other means as are or may be prescribed by law for the liquidation or payment of such subscription, or of any existing indebtedness.

[See Const. 1865, Art. 11, Sec. 14.]

Sec. 7. Cities and towns, organizations and classification.—The General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.

[See Const. 1865, Art. 8, Sec. 5.]

Sec. 8. Township organization—county justices.—The General Assembly may provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting upon that proposition, at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of county affairs, and the assessment and collection of the revenue by county officers, in conflict with such general law for township organization, may be dispensed with, and the business of said county, and the local concerns of the several townships therein, may be transacted in such manner as may be prescribed by law: *Provided,* That the justices of the county court in such cases shall not exceed three in number.

[New section. Section, as amended, adopted in 1902.]

Sec. 9. Township organization discontinued, how.—In any county which shall have adopted "township organization," the question of continuing the same may be submitted to a vote of the electors of such county at a general election, in the manner that shall be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, it shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county.

[New section.]

Sec. 10. Sheriffs and Coroners.—There shall be elected by the qualified voters in each county on the first Tuesday next following the first Monday in November, A. D., 1908, and thereafter every four years, a sheriff and coroner. They shall serve for four years and until their successors be duly elected and qualified, unless sooner removed for malfeasance in office. Before entering on the duties of their office, they shall give security in the amount and in such manner as shall be prescribed by law and shall be eligible only four years in any one period.

Whenever a county shall be hereafter established, the governor shall appoint a sheriff and coroner therein, who shall continue in office until the next succeeding general election and until their successors shall be duly elected and qualified.

[As amended, adopted in 1906.] (k)

(k) See note to Charter Art. IV Sec. 1; Scheme, Sec. 5.

Sec. 11. Sheriffs or coroner—vacancy in office.—Whenever a vacancy shall happen in the office of sheriff or coroner, the same shall be filled by the county court. If such vacancy happen in the office of sheriff more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same, and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise, the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified. If any vacancy happen in the office of coroner, the same shall be filled for the remainder of the term by such county court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

[Const. 1865, Art. 5, Sec. 23.]

Sec. 12. County officers—fees of.—The General Assembly shall, by a law uniform in its operation, provide for and regulate the fees of all county officers, and for this purpose may classify the counties by population.

[New section.]

Sec. 13. Fees of county or city officers, limit—quarterly returns.—The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return, quarterly, to the county court of all fees by him received, and of the salaries by him actually paid to his deputies or assistants, stating the same in detail, and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury.

[New section.]

Sec. 14. Extra officers, duties and terms.—Except as otherwise directed by this Constitution, the General Assembly shall provide for the election or appointment of such other county, township and municipal officers as public convenience may require; and their terms of office and duties shall be prescribed by law; but no term of office shall exceed four years.

[New section.]

Sec. 15. City and county governments, consolidation of.—In all counties having a city therein containing over one hundred thousand inhabitants, the city and county government thereof may be consolidated in such manner as may be provided by law.

[New section.]

Sec. 16. Large cities may frame their own charters, how.—Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city, at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the law-making authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State.

[New section.]

Sec. 17. Provisions of such charters.—It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate, and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

[New section.]

Sec. 18. No person to be State and municipal officer, etc.—In cities or counties having more than two hundred thousand inhabitants, no person shall, at the

same time, be a State officer and an officer of any county, city or other municipality; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace or officers of the militia. (a)

[New section.]

Sec. 19. Municipal indebtedness, payment of.—The corporate authorities of any county, city, or other municipal subdivision of this State, having more than two hundred thousand inhabitants, which has already exceeded the limit of indebtedness prescribed in section twelve of article X of this Constitution, may, in anticipation of the customary annual revenue thereof, appropriate, during any fiscal year, toward the general governmental expenses thereof, a sum not exceeding seven-eighths of the entire revenue applicable to general governmental purposes (exclusive of the payment of the bonded debt of such county, city or municipality) that was actually raised by taxation alone during the preceding fiscal year; but until such excess of indebtedness cease, no further bonded debt shall be incurred, except for the renewal of other bonds. (b)

[New section.]

CITY OF ST. LOUIS.

Sec. 20. City of St. Louis, extension of limits, adoption of charter.—The city of St. Louis may extend its limits so as to embrace the parks now without its boundaries, and other convenient and contiguous territory, and frame a charter for the government of the city thus enlarged, upon the following condition, that is to say: The council of the city and county court of the county of St. Louis shall, at the request of the mayor of the city of St. Louis, meet in joint session and order an election, to be held as provided for general elections, by the qualified voters of the city and county, of a board of thirteen freeholders of such city or county, whose duty shall be to propose a scheme for the enlargement and definition of the boundaries of the city, the reorganization of the government of the county, the adjustment of the relations between the city thus enlarged and the residue of St. Louis county, and the government of the city thus enlarged, by a charter in harmony with and subject to the Constitution and laws of Missouri, which shall, among other things, provide for a chief executive and two houses of legislation, one of which shall be elected by general ticket, which scheme and charter shall be signed in duplicate by said board or a majority of them, and one of them returned to the mayor of the city and the other to the presiding justice of the county court within ninety days after the election of such board. Within thirty days thereafter the city council and county court shall submit such scheme to the qualified voters of the whole county, and such charter to the qualified voters of the city so enlarged, at an election to be held not less than twenty nor more than thirty days after the order therefor; and if a majority of such qualified voters, voting at such election, shall ratify such scheme and charter, then such scheme shall become the organic law of the county and city, and such charter the organic law of the city, and at the end of sixty days thereafter shall take the place of and supersede the charter of St. Louis, and all amendments thereof, and all special laws relating to St. Louis county inconsistent with such scheme. (c)

[New section.]

Sec. 21. Scheme and charter, how authenticated—judicial notice.—A copy of such scheme and charter, with a certificate thereto appended signed by the mayor and authenticated by the seal of the city, and also signed by the presiding justice of the county court and authenticated by the seal of the county, setting forth the submission of such scheme and charter to the qualified voters of such county and city, and its ratification by them, shall be made in duplicate, one of which shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds of St. Louis county, shall be deposited among the archives of the city, and thereafter all courts shall take judicial notice thereof. (d)

[New section.]

Sec. 22. Charter, how amended.—The charter so ratified may be amended by proposals therefor submitted by the lawmaking authorities of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals and accepted by three-fifths of the qualified voters voting for or against each of said amendments so submitted; and the lawmaking authorities of such city may order an election by the qualified voters of the city of a board of thirteen freeholders of such city to prepare a new charter for such city, which said charter shall be in harmony with and subject to the constitution and laws

(a) See note (and authorities there cited) to Sec. 10 of Art. IV of the Charter as to qualifications of city officers.

(b) See note to Charter, Art. III. Sec. 26, clause 1.

(c) For authorities and comments on the bearing and effect of this provision of the constitution (as well as the following sections) see note hereinafter, introductory to the Charter (note under "General Considerations Respecting the Charter.")

(d) See *Walsh vs. Railroad*, 102 Mo. 582, 589; *St. Louis vs. Lang*, 131 Mo. 412, 420; *State ex rel vs. Sutton*, 3 Mo. App. 388; *State ex rel vs. Finn*, 4 Mo. App. 348. For further authorities and discussion see note introductory to the charter.

of the state, and shall provide, among other things, for a chief executive and at least one house of legislation to be elected by a general ticket. Said revised charter shall be submitted to the qualified voters of such city at an election to be held not less than twenty nor more than thirty days after the order therefor, and if a majority of such qualified voters voting at such election ratify such charter, then said charter shall become the organic law of such city, and sixty days thereafter shall take effect and supersede the charter of such city and all special laws inconsistent therewith. (e)

[New section. Section, as amended, adopted in 1902.]

Sec. 23. **Charter in harmony with constitution and laws—various provisions under.**—Such charter and amendments shall always be in harmony with and subject to the Constitution and laws of Missouri, except only that provision may be made for the graduation of the rate of taxation for city purposes in the portions of the city which are added thereto by the proposed enlargement of its boundaries. In the adjustment of the relations between city and county, the city shall take upon itself the entire park tax; and in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, it shall assume the whole of the existing county debt, and thereafter the city and county of St. Louis shall be independent of each other. The city shall be exempted from all county taxation. The judges of the county court shall be elected by the qualified voters outside of the city. The city, as enlarged, shall be entitled to the same representation in the General Assembly, collect the State revenue and perform all other functions in relation to the State, in the same manner, as if it were a county as in this Constitution defined; and the residue of the county shall remain a legal county of the State of Missouri, under the name of the county of St. Louis. Until the next apportionment for Senators and Representatives in the General Assembly, the city shall have six Senators and fifteen Representatives, and the county one Senator and two Representatives, the same being the number of Senators and Representatives to which the county of St. Louis, as now organized, is entitled under sections eight and eleven of article IV of this Constitution. (f)

[New section.]

Sec. 24. **Courts of St. Louis, city and county.**—The county and city of St. Louis, as now existing, shall continue to constitute the Eighth judicial circuit, and the jurisdiction of all courts of record, except the county court, shall continue until otherwise provided by law. (g)

[New section. By Act of 1877, St. Louis county was taken out of the Eighth circuit.]

Sec. 25. **St. Louis subordinate as other cities and counties.**—Notwithstanding the provisions of this article, the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties of this State. (h)

[New section.]

ARTICLE X.

REVENUE AND TAXATION.*

Section 1. **Taxing power, how exercised.**—The taxing power may be exercised by the General Assembly for State purposes, and by counties and other municipal corporations, under authority granted to them by the General Assembly, for county and other corporate purposes.

[New section.]

Sec. 2. **Power to tax corporations not to be surrendered.**—The power to tax corporations and corporate property shall not be surrendered or suspended by act of the General Assembly.

[New section.]

Sec. 3. **Taxes for public purposes must be uniform.**—Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.

[New section.]

Sec. 4. **Taxes in proportion to value.**—All property subject to taxation shall be taxed in proportion to its value.

[Const. 1865, Art. 1, Sec. 30.]

(e) See note to Charter, Art. XVI, Sec. 19.

(f) For full discussion and reference to authorities upon this section see note ("General Considerations on the Charter") introductory to the Charter. As to power of taxation see note and cases to Art. V, Sec. 1 of the Charter.

(g) See State ex rel. vs. Walsh, 69 Mo. 408, 411; State ex rel. vs. Laughlin, 75 Mo. 147. See also in connection herewith note introductory to charter, (paragraphs "Transfer of county functions" and "In how far the city is to be treated as a county.")

(h) State ex rel. vs. Ry. Co., 151 Mo. 162, 182; State ex rel. vs. Walsh, 69 Mo. 408, 411; State ex rel. vs. Walton, 69 Mo. 556. And see further discussion and cases cited in the note introductory to charter.

*Amendments proposed to be submitted at election in 1908. (Laws 1907, p. 460.)

Sec. 5. Railway corporations, taxed for what purposes.—All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises and their capital stock.

[New section.]

Sec. 6. Property exempt from taxation.—The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies: *Provided*, That such exemptions shall be only by general law.

[The Const. 1865, exempted property belonging to the U. S., the State, counties and municipal corporations and public school property. Art. XI, Sec. 16. See Art. XIV, Sec. 1.]

Sec. 7. Other exemptions void.—All laws exempting property from taxation, other than the property above enumerated, shall be void.

[New section.]

Sec. 8. Rate for State purposes.—The State tax on property, exclusive of the tax necessary to pay the bonded debt of the State, shall not exceed twenty cents on the hundred dollars valuation; and whenever the taxable property of the State shall amount to nine hundred million dollars, the rate shall not exceed fifteen cents.

[New section. Rate reduced to 15 cents in 1895.]

Sec. 9. Liability of municipalities—no commutation.—No county, city, town or other municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

[New section.]

Sec. 10. General Assembly shall not tax municipalities, when.—The General Assembly shall not impose taxes upon counties, cities, towns or other municipal corporations or upon the inhabitants or property thereof, for county, city, town or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

[New section.]

Sec. 11. Rates for local purposes—limits—how increased for schools and erecting public buildings.—Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for State and county purposes. For county purposes the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed fifty cents on the hundred dollars valuation; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars valuation; in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars valuation; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars valuation. For city and town purposes the annual rate on property in cities and towns having thirty thousand inhabitants or more shall not, in the aggregate, exceed one hundred cents on the hundred dollars valuation; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars valuation; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars valuation; and in towns having one thousand inhabitants or less, said rate shall not exceed twenty-five cents on the hundred dollars valuation. For school purposes in districts composed of cities which have one hundred thousand inhabitants or more, the annual rate on property shall not exceed sixty cents on the hundred dollars valuation, and in other districts forty cents on the hundred dollars valuation: *Provided*, The aforesaid annual rates for school purposes may be increased, in districts formed of cities and towns to an amount not to exceed one dollar on the hundred dollars valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are taxpayers, voting at an election held to decide the question, vote for said increase. For the purpose of erecting public buildings in counties, cities or school districts, the rates of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city, or school district, voting at such election, shall vote therefor. The rate herein allowed to each county shall be

ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the State, or of the United States; said restrictions as to rates shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing, or bonds which may be issued in renewal of such indebtedness: *Provided*, That the city of St. Louis may levy for municipal purposes, in addition to the municipal rate of taxation above provided, a rate not exceeding the rate which would be allowed for county purposes if said city were part of a county. (i)

[New section. Section as amended (2 amendments) adopted in 1902.]

Sec. 11a. **Special road tax levy authorized.**—In addition to taxes authorized to be levied for county purposes under and by virtue of section eleven, article 10 of the Constitution of this State, the county court in the several counties of this State not under township organization, and the township board of directors in the several counties under township organization, may in their discretion, levy and collect a special tax not exceeding fifteen cents on each one hundred dollars valuation, to be used for road and bridge purposes, but for no other purpose whatever; and the power hereby given said county courts and township boards is declared to be a discretionary power. This constitutional amendment shall not apply to the cities of St. Louis, Kansas City and St. Joseph. (j)

[New section; adopted in 1900.]

Sec. 12. **Municipal indebtedness, limit of.**—No county, city, town, township, school district or other political corporation or subdivision of the State, shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness: *Provided*, That with such assent any county may be allowed to become indebted to a larger amount for the erection of a court house or jail, or for the grading, constructing, paving or maintaining of paved, graveled, macadamized or rock roads and necessary bridges and culverts therein; and *provided, further*, That any county, city, town, township, school district or other political corporation or subdivision of the State, incurring any indebtedness, requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for payment of the principal thereof, within twenty years from the time of contracting the same: *Provided, further*, That the provisions of this section shall not apply to counties having cities that now have or which may hereafter have, one hundred thousand or more inhabitants; nor to cities that now have or may hereafter have over three hundred thousand inhabitants; [Provided, That in the city of St. Louis the amount of bonds now aggregating \$6,111,000 that being the amount assumed by said city in the scheme of separation from the county of St. Louis, and the sum of \$5,808,000, heretofore, prior to January 1, 1901, expended in the construction of waterworks for the city of St. Louis, and any bonds which may be hereafter issued by said city in the construction and improvement of waterworks, the payment of the interest whereon and the principal whereof shall be provided from the revenue of said waterworks; that is to say, the amount of said bonds which shall be outstanding at any time shall not be included in the computation of the existing bonded indebtedness in determining the amount of bonds authorized to be issued by said city with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid, to an amount including the outstanding indebtedness other than that above named, to the amount of five per cent. of the value of the taxable property in said city, to be ascertained as above provided, and said city shall have power, with such assent of the voters, to issue bonds for the construction and improvement of waterworks, the interest whereon and the principal whereof shall be provided for from the income of said waterworks. Said city shall establish a sinking fund for the payment of the bonds so authorized according to the time fixed for the maturity of the same: *Provided, further*, that in the city of Kansas City, the amount of bonds issued by said city, bearing date July 1, 1895, for acquiring waterworks and all bonds hereafter issued in renewal of said bonds or any portion thereof shall not be included in the computation of the existing bonded indebtedness of said city in

(i) See note to Art. V, Sec. 1 of the Charter and to Art. III, Sec. 26, clause 1 of the Charter.

(j) This section is void, because in conflict with the 14th amendment of the U. S. Constitution: *State ex rel. vs. Railway*, 195 Mo. 228.

determining the amount of bonds authorized to be issued by said city, with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid to an amount including outstanding indebtedness, other than that above named, to the amount of five per centum of the value of the taxable property in said city to be ascertained as above specified: *And provided further*, That the corporate authorities of the city of St. Louis are hereby authorized to issue interest bearing bonds of said city in the amount of five million dollars, at a rate of interest not to exceed four per cent. per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the corporation organized for the celebration of the Louisiana Purchase Centennial in said city, to be used by said corporation for said celebration, in holding a World's Fair or Exposition in said city. And said corporate authorities of St. Louis shall be repaid as large a proportionate amount of the aid given by them as shall be repaid to the stockholders of said corporation on the sum subscribed and paid by them, and any surplus remaining from the assets of said corporation after said stockholders and said city shall have been paid in full, shall be divided between said stockholders and said city in proportion to the aggregate amount of said stock so paid in and the amount so loaned by said city; and any amount so received by said city from said corporation shall be paid into the sinking fund of said city for the redemption of its outstanding bonds: *Provided*, That if at the election for the adoption of this amendment to the Constitution a majority of the votes cast within the limits of said city of St. Louis voting for and against this amendment, shall be against its adoption, then no bonds shall be issued under this amendment: *And provided, further*, That no such indebtedness so created shall be in any part thereof paid by the State or from any State revenue, tax or fund, but the same shall be paid by the city of St. Louis alone.] (k)

[New section, 1875. Section was amended in 1900, again in 1902 and again in 1906.]

Sec. 12a. *Id.* For waterworks, etc., in city of 30,000 and not less than 2,000—Any city in this State containing not more than thirty thousand (30,000) nor less than two thousand (2,000) inhabitants, may, with the assent of two-thirds of the voters thereof voting at an election to be held for that purpose be allowed to become indebted in a larger amount than specified in section twelve of article ten (X) of the Constitution of this State, not exceeding an additional five (5) per centum on the value of the taxable property therein, for the purpose of purchasing or constructing waterworks, electric or other light plants, to be owned exclusively by the city so purchasing or constructing the same: *Provided*, That any such city incurring any such indebtedness requiring the assent of the voters as aforesaid, shall have the power to provide for, and, before or at the time of incurring such indebtedness, shall provide for the collection of an annual tax in addition to the other taxes provided for by this Constitution; sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same, any provision in this Constitution to the contrary notwithstanding. (l)

[Section adopted in 1902.]

Sec. 13. **Private property not to be sold for corporate debt.**—The private property shall not be taken or sold for the payment of the corporate debt of a municipal corporation.

[New section.]

Sec. 14. **Ordinance 1865, abolished—payment of State debt.**—The tax authorized by the sixth section of the ordinance adopted June sixth, one thousand eight hundred and sixty-five, is hereby abolished, and hereafter there shall be levied and collected an annual tax sufficient to pay the accruing interest upon the bonded debt of the State, and to reduce the principal thereof each year by a sum not less than two hundred and fifty thousand dollars; the proceeds of which tax shall be paid into the State treasury, and appropriated and paid out for the purposes expressed in the first and second subdivisions of section forty-three of Article IV of this Constitution. The funds and resources now in the State interest and State sinking funds shall be appropriated to the same purposes; and whenever said bonded debt is extinguished, or a sum sufficient therefor has been raised, the tax provided for in this section shall cease to be assessed.

[New section.]

(k) See note to Charter, Art. III, Sec. 26, clause 1, and notes to Art. V. Sinking fund to pay city bonds, see Charter Art. XIV. It is to be observed that in the resolution submitting the amendment to be adopted in November, 1906, that portion added by the amendment adopted in 1902, (indicated by enclosure in brackets above) was omitted altogether. The amendment in 1906 added the portion between the words "jail" and the next "and provided further," to the original section, without noticing the intervening amendment in 1902 which had added that part referring to St. Louis and Kansas City. See resolution set forth in Session Laws 1905, p. 309-310. See State ex rel. vs. Allen, 183 Mo. 283.

(l) See State ex rel. vs. Wilder, 197 Mo. 1. Proposed amendment to be voted on in 1908 (Laws 1907, p. 454.) A new sec. 12b is to be submitted at same time (ib. p. 453), increasing the limit of indebtedness in cities over 100,000.

Sec. 15. **Deposit of State funds by treasurer—how disbursed.**—All moneys now, or at any time hereafter, in the State treasury, belonging to the State, shall, immediately on receipt thereof, be deposited by the Treasurer to the credit of the State for the benefit of the funds to which they respectively belong, in such bank or banks as he may, from time to time, with the approval of the Governor and Attorney-General, select, the said bank or banks giving security, satisfactory to the Governor and Attorney-General, for the safe keeping and payment of such deposit, when demanded by the State Treasurer on his check—such bank to pay a bonus for the use of such deposits not less than the bonus paid by other banks for similar deposits; and the same, together with such interest and profits as may accrue thereon, shall be disbursed by said Treasurer for the purposes of the State, according to law, upon warrants drawn by the State Auditor, and not otherwise.

[New section.]

Sec. 16. **Treasurer's account.**—The Treasurer shall keep a separate account of the funds, and the number and amount of warrants received, and from whom; and shall publish, in such manner as the Governor may designate, quarterly statements, showing the amount of State moneys and where the same are kept or deposited.

[New section.]

Sec. 17. **Officer not to speculate in public funds—felony.**—The making of profit out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

[New section.]

Sec. 18. **State Board of Equalization—members.**—There shall be a State Board of Equalization, consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney-General. The duty of said board shall be to adjust and equalize the valuation of real and personal property among the several counties in the State, and it shall perform such other duties as are or may be prescribed by law.

[New section.]

Sec. 19. **Money to be paid as appropriated—limit—how, continued—receipts and expenditures.**—No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management except in pursuance of an appropriation by law; nor unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

[New except first clause. Const. 1865, Art. XI, Sec. 6.]

Sec. 20. **Money from loans—how applied.**—The moneys arising from any loan, debt or liability, contracted by the State, or any county, city, town or other municipal corporation, shall be applied to the purposes for which they were obtained, or to the payment of such debt or liability, and not otherwise.

[New section.]

Sec. 21. **Corporations—fees to be paid when incorporated.**—No corporation, company or association, other than those formed for benevolent, religious, scientific or educational purposes, shall be created or organized under the laws of this State, unless the persons named as incorporators shall, at or before the filing of the articles of association or incorporation, pay into the State treasury fifty dollars for the first fifty thousand dollars or less of capital stock, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. And no such corporation, company or association shall increase its capital stock without first paying into the treasury five dollars for every ten thousand dollars of increase: *Provided*, That nothing contained in this section shall be construed to prohibit the General Assembly from levying a further tax on the franchises of such corporation.

[New section.]

[Sections 22 and 23 were repealed.]

Sec. 26. [22] **Certificates of indebtedness held as sacred obligations—levy for payment of interest.**—All certificates of indebtedness of the State to the "public school fund" and to the "seminary fund" are hereby confirmed as sacred obligations of the State to said funds and they shall be renewed as they mature for such period of time and at such rate of interest as may be provided for by law. The General Assembly shall have the power to provide by law for the issuing certificates to the public school fund and seminary fund as the money belonging to said funds accumulates in the State treasury: *Provided*, That after the outstanding bonded indebtedness has been extinguished, all money accumulating in the State treasury for above named purposes shall be invested in registered county, municipal, or school district bonds of this State of not less than par value. Whenever the State bonded debt is extinguished or a sum sufficient therefor has been received, there shall be levied and collected in lieu of the ten cents on the one hundred dollars valuation now provided

*Amendment proposed to be voted on at election of 1908, concerning levy of tax for roads, etc.

for by the Statutes, an annual tax not to exceed three cents on the one hundred dollars valuation to pay the accruing interest on all the certificates of indebtedness, the proceeds of which tax shall be paid into the State treasury and appropriated and paid out for the specific purposes herein mentioned.

[Section adopted in 1902.]

[Section 27.*]

ARTICLE XI.

EDUCATION.**

Section 1. Free schools—school ages.—A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

[Const. 1865, Art. 9, Sec. 1, modified.]

Sec. 2. School funds, how disbursed—what districts entitled to.—The income of all funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers, to be disbursed according to law; but no school district, in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

[See Const. 1865, Art. 9, Sec. 7.]

Sec. 3. Colored children, separate schools for.—Separate free public schools shall be established for the education of children of African descent.

[Const. 1865, Art. 9, Sec. 2.]

Sec. 4. Board of education.—The supervision of instruction in the public schools shall be vested in a "Board of Education," whose powers and duties shall be prescribed by law. The Superintendent of Public Schools shall be president of the Board. The Governor, Secretary of State and Attorney-General shall be *ex officio* members, and, with the Superintendent, compose said Board of Education.

[Const. 1865, Art. 9, Sec. 3, modified.]

Sec. 5. State University—curators.—The General Assembly shall whenever the Public School fund will permit and the actual necessity of the same may require, aid and maintain the State University, now established, with its present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members, to be appointed by the Governor, by and with advice and consent of the Senate.

[See Const. 1865, Art. 9, Sec. 4.]

Sec. 6. Public school fund, from whence derived, not to be diverted.—The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effect that may accrue to the State by escheat, from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts or devises that have been or hereafter may be made to this State, and not otherwise appropriated by the State or the terms of the grant, gift or devise, shall be paid into the State treasury, and securely invested and sacredly preserved as a Public School fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this article provided for, and for no other uses or purposes whatsoever.

[See Const. 1865, Art. 9, Sec. 5.]

Sec. 7. Deficiency, how provided for—minimum from State revenue.—In case the Public School fund now provided and set apart by law, for the support of free public schools, shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the General Assembly may provide for such deficiency in accordance with section eleven of the article on revenue and taxation; but in no case shall there be set apart less than twenty-five per cent. of the State revenue, exclusive of the interest and sinking fund, to be applied annually to the support of the public schools.

[Const. 1865, Art. 9, Sec. 8, modified.]

Sec. 8. County school fund, whence derived.—All moneys, stocks, bonds, lands and other property belonging to a county school fund, also the net proceeds from the sale of estrays, also the clear proceeds of all penalties and forfeitures, and

*Proposed amendment adding sec. 27 to be voted at election of 1908.

**See Charter, Art. XIII and references in notes thereto; also "Laws Specially Applicable to St. Louis" herein, sections 497-534, (Chap. 27 thereof), and notes thereto.

of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties as a county public school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

[Const. 1865, Art. 9, Sec. 5, with additions and changes.]

Sec. 9. Public school fund, how invested.—No part of the public school fund of the State shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belong or may hereafter belong to said school fund shall be invested in the bonds of the State of Missouri, or of the United States.

[Under Const. 1865, Art. 9, Sec. 6, school fund could only be invested in United States bonds.]

Sec. 10. County school fund, how invested.—All county school funds shall be loaned only upon unencumbered real estate security of double the value of the loan, with personal security in addition thereto.

[Const. 1865, Art. 9, Sec. 6.]

Sec. 11. Religious or sectarian schools—public funds not to be paid or property granted to.—Neither the General Assembly nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

[New section.]

ARTICLE XII.

CORPORATIONS.

Section 1. Existing charters or grants without validity, when.—All existing charters or grants of special or exclusive privileges, under which a *bona fide* organization shall have not taken place, and business been commenced in good faith, at the adoption of this Constitution, shall thereafter have no validity.

[New section.]

Sec. 2. Not to be created by special laws.—No corporation, after the adoption of this Constitution, shall be created by special laws; nor shall any existing charter be extended, changed or amended by special laws, except those for charitable, penal or reformatory purposes, which are under the patronage and control of the State.

[See Const. 1865, Art. 7, Sec. 4.]

Sec. 3. Legislature not to remit forfeited charters.—The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend such forfeited charter, or pass any other general or special laws for the benefit of such corporation.

[New section.]

Sec. 4. Eminent domain, right of State in corporation property—trial.—The exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, or that may be hereafter organized, and subjecting them to the public use, the same as that of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when in the exercise of said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

[New section.]

Sec. 5. Police power of the State.—The exercise of the police power of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the State.

[New section.]

Sec. 6. Shareholders, number of votes in election of directors.—In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy for one candidate, or distribute such votes among two or more candidates; and such directors or managers shall not be elected in any other manner.

[New section.]

Sec. 7. Corporation—business limited by charter—power to hold real estate.—No corporation shall engage in business other than that expressly authorized in its charter or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business.

[New section.]

Sec. 8. Stock and bonded debt, how issued or increased.—No corporation shall issue stock or bonds, except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting called for the purpose, first giving sixty days' public notice, as may be required by law.

[New section.]

Sec. 9. Stockholders, extent of liability.—Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable in any amount over or above the amount of stock owned by him or her.

[Const. 1865, Art. 7, Sec. 6. Stockholder liable for double amount of his stock.]

Sec. 10. Preferred stock, how issued.—No corporation shall issue preferred stock without the consent of all the stockholders.

[New section.]

Sec. 11. Corporation defined.—The term corporation, as used in this article, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships.

[New section.]

RAILROADS.

Sec. 12. Discrimination prohibited—commutation tickets.—It shall not be lawful in this State for any railway company to charge for freight or passengers a greater amount, for the transportation of the same, for a less distance than the amount charged for any greater distance; and suitable laws shall be passed by the General Assembly to enforce this provision; but excursion and commutation tickets may be issued at special rates.

[New section.]

Sec. 13. May construct and operate, connect and intersect other lines—freight.—Any railroad corporation or association, organized for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other states. Every railroad company shall have the right, with its road, to intersect, connect with or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

[New section.]

Sec. 14. Railways public highways—laws against extortion, etc.—Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and railroad companies common carriers. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and shall from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

[New section.]

Sec. 15. Shall have public office, keep books—meetings of directors.—Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and shall report annually under oath, to the State Auditor, or some officer designated by law, all of their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The General Assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

[New section.]

Sec. 16. Property subject to execution—no law to be passed exempting.—The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals;

and the General Assembly shall pass no law exempting any such property from execution and sale.

[New section.]

Sec. 17. **Shall not consolidate with parallel lines.**—No railroad or other corporation, or the lessees, purchasers or managers of any railroad corporation shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works of franchises of, or in any way control, any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line. The question whether railroads are parallel or competing lines shall, when demanded, be decided by a jury, as in other civil issues.

[New section.]

Sec. 18. **Consolidation with foreign companies.**—If any railroad company organized under the laws of this State shall consolidate, by sale or otherwise, with any railroad company organized under the laws of any other state, or of the United States, the same shall not thereby become a foreign corporation; but the courts of this State shall retain jurisdiction in all matters which may arise, as if said consolidation had not taken place. In no case shall any consolidation take place except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

[New section.]

Sec. 19. **Laws retrospective or in aid of corporations forbidden.** The General Assembly shall pass no law for the benefit of a railroad or other corporations, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State, a new liability in respect to transactions or considerations already past.

[New section.]

Sec. 20. **Street railroad, franchise, how granted.**—No law shall be passed by the General Assembly granting the right to construct and operate a street railroad within any city, town, village, or on any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad; and the franchises so granted shall not be transferred without similar assent first obtained. (*m*)

[New section.]

Sec. 21. **Railroad corporation, benefit of future legislation.**—No railroad corporation in existence at the time of the adoption of this Constitution shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this Constitution applicable to railroads.

[New section.]

Sec. 22. **Officer of railroad not to be interested in business.**—No president, director, officer, agent or employe of any railroad company shall be interested, directly or indirectly, in furnishing material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

[New section.]

Sec. 23. **Discrimination between companies and individuals.**—No discrimination in charges or facilities in transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad company or any lessee, manager or employe thereof, shall make any preference in furnishing cars or motive power.

[New section.]

Sec. 24. **Free passes, granting to State officers, forfeiture.**—No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the General Assembly, or members of the Board of Equalization, or any State, or county, or municipal officers; and the acceptance of such pass or ticket, by a member of the General Assembly, or any such officer, shall be a forfeiture of his office.

[New section.]

BANKS.

Sec. 25. **State banks and State owning stock in corporations forbidden.**—No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation, or joint stock company, or association for banking purposes, now created or hereafter to be created.

[See Const. 1865, Art. 8, Secs. 1 and 2.]

Sec. 26. **Act creating banks to be submitted to the people.**—No act of the General Assembly authorizing or creating corporations or associations with banking powers (except banks of deposit or discount), nor amendments thereto, shall go into

(*m*) See notation of cases in notes to Charter, Art. X, and also references to legislative acts there set out.

effect, or in any manner be enforced, unless the same shall be submitted to a vote of the qualified voters of the State, at the general election next succeeding the passage of the same, and be approved by a majority of the votes cast at such election.

[See Const. 1865, Art. 8, Secs. 1 and 2.]

Sec. 27. **Banks, insolvent, not to receive deposits.**—It shall be a crime, the nature and punishment of which shall be prescribed by law, for any president, director, manager, cashier or other officer of any banking institution, to assent to the reception of deposits, or the creation of debts by such banking institution, after he shall have had knowledge of the fact that it is insolvent, or in failing circumstances; and any such officer, agent or manager shall be individually responsible for such deposits so received, and all such debts so created with his assent.

[New section.]

ARTICLE XIII.

MILITIA.

Section 1. **Military duty, persons liable to.**—All able-bodied male inhabitants of this State between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duty in the militia of this State: *Provided*, That no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law.

[Proviso new. Const. 1865, Art. 10, Sec. 1.]

Sec. 2. **Militia, organization of.**—The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

[New section.]

Sec. 3. **Officers, election of.**—Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, or by the order of the Governor, they may be appointed by the Governor.

[Const. 1865, Art. 10, Sec. 3.]

Sec. 4. **Companies, infantry and cavalry may be formed.**—Volunteer companies of infantry, cavalry and artillery may be formed in such manner and under such restrictions as may be provided by law.

[New section.]

Sec. 5. **Forces, privileged from arrest, when.**—The volunteer and militia forces shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and elections, and in going to and returning from the same.

[New section.]

Sec. 6. **Officers, Governor shall appoint.**—The Governor shall appoint the Adjutant-General, Quartermaster-General and his other staff officers. He shall also, with the advice and consent of the Senate, appoint all Major Generals and Brigadier Generals.

[New section.]

Sec. 7. **Arms and records, State shall keep.**—The General Assembly shall provide for the safe keeping of the public arms, military records, banners and relics of the State.

[New section.]

ARTICLE XIV.

MISCELLANEOUS PROVISIONS.

Section 1. **Public lands—taxing land of United States and non-residents.**—The General Assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with any regulation which Congress may find necessary for securing the title in such soil to *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

[Const. 1865, Art. 11, Sec. 1.]

Sec. 2. **Immunity from punishment for acts during civil war, when.**—No person shall be prosecuted in any civil action or criminal proceeding for or on account of any act by him done, performed or executed between the first day of January, one thousand eight hundred and sixty-one, and the twentieth day of August, one thousand eight hundred and sixty-six, by virtue of military authority vested in him, or in pursuance of orders from any person vested with such authority by the government of the United States, or of this State, or of the late Confederate States, or any of them,

to do such act. And if any action or proceedings shall have been or shall hereafter be instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

[“Or of late Confederate States,” new. Const. 1865, Art. 11, Sec. 4.]

Sec. 3. **Dueling prohibited.**—No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

[Const. 1865, Art. 11, Sec. 5.]

Sec. 4. **United States officer not to hold State office.**—No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this State.

[Const. 1865, Art. 11, Sec. 7.]

Sec. 5. **Tenure of office.**—In the absence of any contrary provision all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified.

[Const. 1865, Art. 11, Sec. 8.]

Sec. 6. **Oath of office.**—All officers, both civil and military, under the authority of this State, shall, before entering on the duties of their respective offices, take and subscribe an oath, or affirmation, to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

[New section.]

Sec. 7. **County, City, etc., officers—removed from office, when.**—The General Assembly shall, in addition to other penalties, provide for the removal from office of county, city, town or township officers, on conviction of willfull, corrupt or fraudulent violation or neglect of official duty.

[New section.]

Sec. 8. **Officers' fees, etc., not to be increased nor term extended.**—The compensation or fees of no State, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed. (n)

[New section.]

Sec. 9. **Appointment of officers.**—The appointment of all officers not otherwise directed by this Constitution shall be made in such manner as may be prescribed by law.

[New section.]

Sec. 10. **Lotteries prohibited.**—The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery, in this State; and all acts or parts of acts heretofore passed by the Legislature of this State, authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

[See Const. 1865, Art. 4, Sec. 28.]

Sec. 11. **Officers having public funds, grand jury to investigate.**—It shall be the duty of the grand jury in each county, at least once a year, to investigate the official acts of all officers having charge of public funds, and report the result of their investigations, in writing, to the court.

[New section.]

Sec. 12. **Members General Assembly not to be arrested, when.**—Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the General Assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house they shall not be questioned in any other place.

[Const. 1865, Art. 4, Sec. 16.]

ARTICLE XV.

MODE OF AMENDING THE CONSTITUTION.

[As to mode of amending Constitution, see Laws 1881, p. 88, and Laws 1883, p. 47.]

Section 1. **Constitution, how amended.**—This Constitution may be amended and revised only in pursuance of the provisions of this article.

[See Const. 1865, Art. 12, Sec. 1.]

Sec. 2. **General Assembly may propose amendments—submitted to vote.**—The General Assembly may, at any time, propose such amendments to this Constitution as a majority of the members elected to each house shall deem expedient; and the vote thereon shall be taken by yeas and nays, and entered in full on the journals. The proposed amendments shall be published with the laws of that session, and also shall be published weekly in some newspaper, if such there be, within each county in the State, for four consecutive weeks next pre-

(n) See note and authorities to Charter, Art. XVI, Sec. 17.

ceeding the general election then next ensuing. The proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such manner as the General Assembly may provide. If a majority of the qualified voters of the State, voting for and against any one of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this Constitution.

[See Const. 1865, Art. 12, Sec. 2.]

Sec. 3. Constitution, how revised, etc.—The General Assembly may at any time authorize, by law, a vote of the people to be taken upon the question whether a convention shall be held for the purpose of revising and amending the Constitution of this State; and if at such election a majority of the votes on the question be in favor of a convention, the Governor shall issue writs to the sheriffs of the different counties, ordering the election of delegates to such a convention, on a day not less than three and within six months after that on which the said question shall have been voted on. At such election each Senatorial district shall elect two delegates for each Senator to which it may then be entitled in the General Assembly, and every such delegate shall have the qualifications of a State Senator. The election shall be conducted in conformity with the laws regulating the election of Senators. The delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a convention, and proceed to revise and amend the Constitution; and the Constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty days or more than six months after that on which it shall have been adopted by the convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose; and if a majority of all the votes given be in favor of such Constitution, it shall, at the end of thirty days after such election, become the Constitution of this State. The result of such election shall be made known by proclamation by the Governor. The General Assembly shall have no power, otherwise than in this section specified, to authorize a convention for revising and amending the Constitution.

[See Const. 1865, Art. 12, Sec. 3.]

SCHEDULE.

Existing laws, rights and actions.—That no inconvenience may arise from the alteration and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

Section 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force until altered or repealed by the General Assembly; and all rights, actions, prosecutions, claims and contracts of the State, counties, individuals or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in force until the first day of July, one thousand eight hundred and seventy-seven, unless sooner amended or repealed by the General Assembly.

Sec. 2. Existing obligations—criminal proceedings.—That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this Constitution to this State, or to any subdivision thereof or any municipality therein; and all fines, taxes, penalties and forfeitures due or owing to this State, or any such subdivision or municipality; and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments which shall have been found, or may hereafter be found for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

Sec. 3. County and probate courts.—All county and probate courts, as now constituted and organized, shall continue with their jurisdiction, until the General Assembly shall by law conform them in their organization to the requirements of this Constitution.

Sec. 4. Criminal courts.—All criminal courts organized and existing under the laws of this State, and not specially provided for in this Constitution, shall continue to exist until otherwise provided by law.

Sec. 5. Courts of common pleas.—All courts of common pleas existing and organized in cities and towns having a population exceeding three thousand five hundred inhabitants, and such as by the law of their creation are presided over by a judge of a circuit court, shall continue to exist and exercise their present jurisdiction until otherwise provided by law. All other courts of common pleas shall cease to exist at the expiration of the present terms of office of the several judges thereof.

Sec. 6. Persons now in office.—All persons now filling any office or appointment in this State shall continue in the exercise of the duties thereof, according to their respective commissions or appointments unless otherwise provided by law.

Sec. 7. Appeals and writs of error.—Upon the adoption of this Constitution, all appeals to and writs of error from the Supreme Court shall be returnable to the Supreme Court at the City of Jefferson.

Sec. 8. Bonded debt—payment of.—Until the General Assembly shall make provision for the payment of the State and railroad indebtedness of this State, in pursuance of section fourteen of Article X of this Constitution, there shall be levied and collected an annual tax of one-fifth of one per centum on all real estate and other property and effects subject to taxation, the proceeds of which shall be applied to the payment of the interest on the bonded debt of this State as it matures, and the surplus, if any, shall be paid into the sinking fund and thereafter applied to the payment of such indebtedness, and to no other purpose.

Sec. 9. Election for adoption or rejection of this Constitution.—This Constitution shall be submitted to the people of this State for adoption or rejection, at an election to be held for that purpose only, on Saturday, the thirtieth day of October, one thousand eight hundred and seventy-five. Every person entitled to vote under the Constitution and laws of this State shall be entitled to vote for the adoption or rejection of this Constitution. Said election shall be held and said qualified electors shall vote at the usual places of voting in the several counties of this State; and said election shall be conducted and returns thereof made according to the laws now in force regulating general elections.

Sec. 10. Poll-books, ballots, etc.—The clerks of the several county courts in this State shall, at least five days before said election, cause to be delivered to the judges of election in each election district or precinct in their respective counties, suitable blank poll-books, forms of return and five times the number of properly prepared printed ballots for said election that there are voters in said respective districts, the expense whereof shall be allowed and paid by the several county courts, as other county expenditures are allowed and paid.

Sec. 11. Ballots, form of.—At said election the ballots shall be in the following form: New Constitution ticket (*erase the clause you do not favor.*) New Constitution,—Yes. New Constitution,—No. Each of said tickets shall be counted as a vote for or against this Constitution, as the one clause or the other may be cancelled with ink or pencil by the voter, and returns thereof shall be made accordingly. If both clauses of the ticket be erased, or if neither be erased, the ticket shall not be counted.

Sec. 12. Returns of election—proclamation by Governor.—The returns of the whole vote cast for the adoption and against the adoption of this Constitution shall be made by the several clerks, as now provided by law in case of the election of State officers, to the Secretary of State, within twenty days after the election; and the returns of said votes shall, within ten days thereafter, be examined and canvassed by the State Auditor, State Treasurer and Secretary of State, or any two of them, in the presence of the Governor, and proclamation shall be made by the Governor forthwith of the result of the canvass.

Sec. 13. Result of election—Constitution to take effect, when.—If, upon such canvass, it shall appear that a majority of the votes polled were in favor of the new Constitution, then this Constitution shall, on and after the thirtieth day of November, one thousand eight hundred and seventy-five, be the supreme law of the State of Missouri, and the present existing Constitution shall thereupon cease in all its provisions; but if it shall appear that a majority of the votes polled were against the new Constitution, then this Constitution shall be null and void, and the existing Constitution shall continue in force.

Sec. 14. Schedule to take effect, when.—The provisions of this schedule required to be executed prior to the adoption or rejection of this Constitution, shall take effect and be in force immediately.

Sec. 15. Laws to enforce Constitution.—The General Assembly shall pass all such laws as may be necessary to carry this Constitution into full effect.

Sec. 16. Existing executive officers, provisions as to.—The present Secretary of State, State Auditor, Attorney-General and Superintendent of Public Schools shall, during the remainder of their terms of office, unless otherwise directed by law, receive the same compensation and fees as is now provided by law; and the present State Treasurer shall, during the remainder of the term of his office, continue to be governed by existing law, in the custody and disposition of the State funds, unless otherwise directed by law.

Sec. 17. Arrests and preliminary examinations.—Section twelve of the Bill of Rights shall not be so construed as to prevent arrests and preliminary examination in any criminal case.

Done in Convention, at the Capitol in the City of Jefferson, on the second day of August, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

WALDO P. JOHNSON, President St. Clair county.
N. W. WATKINS, Vice-President, Scott county.
ADAMS, WASHINGTON, Cooper.
ALLEN, DeWITT C., Clay.
ALLEXANDER, A. M., Monroe.
BLACK, FRANCIS M., Jackson.
BOONE, HENRY, DeKalb.
BRADFIELD, GEORGE W., Laclede.
BROADHEAD, JAMES O., St. Louis.
BROKMAYER, HENRY C., St. Louis.
CARLETON, GEORGE W., Pemiscot.
CHRISMAN, WILLIAM, Jackson.
CONWAY, EDMUND V., St. Francois.
COTTEY, LOUIS F., Knox.
CREWS, T. W. B., Franklin.
CROCKETT, SAMUEL R., Vernon.
DAVIS, LOWNDES HENRY, Cape Girardeau.
DRYDEN, LEONIDAS J., Warren.
DYSART, BENJAMIN ROBERT, Macon.
EDWARDS, JOHN F. T., Iron.
EDWARDS, JAMES C., St. Louis.
EITZEN, CHARLES D., Gasconade.
FARRIS, JAMES L., Ray.
FYAN, ROBERT W., Webster.
GANTT, THOMAS TASKER, St. Louis.
GOTTSCHALK, LOUIS, St. Louis.
HALE, JOHN B., Carroll.
HALLIBURTON, W., Sullivan.
HAMMOND, CHARLES, Chariton.
HARDIN, NEIL CAMERON, Pike.
HOLLIDAY, J. A., Caldwell.
HYER, JOHN, Dent.
JOHNSON, HORACE B., Cole.
JOHNSTON, T. J., Nodaway.
LACKLAND, HENRY CLAY, St. Charles.
LETCHER, WM. H., Saline.
LAY, ALFRED M., Cole.
MABREY, PINCKNEY, Ripley.
MASSEY, B. F., Newton.
MAXEY, JAMES HARVEY, Howell.
McAFEE, CHARLES B., Greene.
McKEE, ARCHIBALD V., Lincoln.
McCABE, EDWARD, Marion.
McKILLOP, MALCOLM, Atchison.
MORTELL, NICHOLAS A., St. Louis.
MUDD, HENRY THOMAS, St. Louis.
NICKERSON, EDMUND A., Johnson.
NORTON, ELIJAH HISE, Platte.
PIPKIN, PHILIP, Jefferson.
PRIEST, WILLIAM, Platte.
PULITZER, JOSEPH, St. Louis.
RAY, JOHN, Barry.
RIDER, J. H., Bollinger.
RIPPEY, J. R., Schuyler.
ROBERTS, JAMES C., Buchanan.
ROSS, J. P., Morgan.
ROSS, JOHN W., Polk.
RUCKER, JOHN FLEMING, Boone.
SHACKELFORD, THOMAS, Howard.
SHANKLIN, JOHN H., Grundy.

SHIELDS, GEORGE H., St. Louis.
SPAUNHORST, HENRY J., St. Louis.
SWITZLER, WILLIAM F., Boone.
TAYLOR, JOHN H., Jasper.
TAYLOR, AMOS RILEY, St. Louis.
TODD, ALBERT, St. Louis.
WAGNER, L. J., Scotland.
WALLACE, HENRY C., Lafayette.

G. N. NOLAN, Secretary.

ATTEST: J. BOYLE ADAMS, Assistant Secretary.

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PART I.

STATE STATUTES.

COMPILATION OF LAWS OF THE STATE OF
MISSOURI, SPECIALLY APPLICABLE
TO THE CITY OF ST. LOUIS.
(ANNOTATED).

A COMPILATION OF LAWS

—OF THE—

STATE OF MISSOURI

SPECIALLY APPLICABLE TO THE

CITY OF ST. LOUIS,*

Including those passed in 1907 by the 44th General Assembly.

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***Laws specially applicable to City of St. Louis, when valid, and when void, on the ground of being special and local.**

(1) *The following were upheld as not being obnoxious to the constitution as special legislation, or local law;*

Juvenile Court Act: Ex parte Loving 178 Mo., 194, with full discussion of the cases on the general subject.

Registration and Election Law: State ex rel. vs. Mason, 155 Mo. 486; Ewing vs. Heblizelle, 89 Mo., 64.

Metropolitan Police Act: State ex rel. vs. Mason, 153 Mo., 23, 52.

Justices of the Peace and Constables Act: Spaulding vs. Brady, 128 Mo. 653 and cases cited.

Sheriff Act: Kenefick vs. St. Louis, 127 Mo. 1.

Dramshop: See cases cited in Chap. 8 of these laws, sec. 229-236; also State ex rel vs. Bell, 119 Mo. 70, 76.

School Board Elections: State ex rel. vs. Miller, 100 Mo. 439.

(2) *Legislation Held Void as special and local:*

Probate Judge on Salary: Henderson vs. Koenig, 168 Mo. 356 and see cases there cited.

Election Law providing a severer penalty for St. Louis than provided by general law on same subject: State vs. Anslinger, 171 Mo. 600.

Boulevard Act, prohibiting any but residences, etc., on certain streets: St. Louis vs. Dorr, 145 Mo. 466.

Reconstruction of Streets, special tax bill—cost unlimited—Murnane vs. St. Louis, 123 Mo. 479.

Amendment of St. Louis Charter by implication: Murnane vs. St. Louis, 123 Mo. 479; St. Louis vs. Dorr, 145 Mo. 466. (The doctrine of these cases forbidding special amendment by the legislature, of the city's charter, on municipal subject was subsequently receded from, and it is now held that St. Louis is not in any one of the classes of cities established by the constitution, but is organized directly under Secs. 20-25 of Art. IX of the constitution: State ex rel. vs. Mason, 153 Mo. loc. cit. 52; Kansas City vs. Stegmiller, 151 Mo. 189, 204; State ex rel. vs. Mason, 155 Mo. 486, and other cases. See on this point introductory note "General Considerations on Charter," at beginning of charter provisions, and as to amendment see Chart. Art. XVI, sec. 19.)

Judicial Notice is taken by the courts that St. Louis is the only city to which an act applicable "to cities of 300,000 inhabitants or over" will apply: State vs. Anslinger, 171 Mo. 600, 610; State ex rel. vs. Miller, 100 Mo. 439, 450.

And that St. Louis is a separate political sub-division of the State: State vs. Nolle, 96 Mo. App. 524; hence all appeals to which the city is a party go to the Supreme Court. See Charter Art. XVI, Sec. 6, and note.

As to judicial notice of the Charter see note on "General Considerations Respecting the Charter," introductory to the Charter.

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CHAPTER ONE.

ADVERTISEMENTS—LEGAL.*

Section 1. **Advertisements to be let, when and how.**—In all cities having a population of more than one hundred thousand inhabitants a board consisting of the judges of the circuit court of such cities, or of the judicial circuit in which such city is situated, or a majority of the same, shall, on or before the first day of January, 1890, and every two years thereafter, cause to be published in some daily newspaper of said city a notice of at least twenty days, designating when and where said board will receive sealed proposals from daily newspapers published in said city for the publication of all advertisements, judicial notices and

*For contracts for City Printing see Charter Art. XV, and for city ordinances see R. C. Secs. 2036-2046. The above State act applies to publications pertaining to judicial proceedings, and does not include sales by trustees under deeds of trust: Dart v. Bagley, 110 Mo. 42.

orders of publication required by law to be made. At the time and place so designated, said board, or a majority thereof, shall proceed publicly to open said bids, and shall award the printing of all said publications to the newspaper naming the lowest and best bid: *Provided, however*, first, that said bid shall be accompanied by a good and sufficient bond, in a sum to be fixed by said board, conditioned for the correct and faithful publication in said newspaper of all said advertisements, notices and orders, in manner and form as required by law, and according to the schedule of rates named in said proposal, and upon said bond suit may be instituted in the name of the State, to the use of any person aggrieved; second, that no paper shall be awarded the contract for said publication, unless it have a *bona fide* daily circulation in number of copies equal to at least five per cent of the total population of such cities as shown by the last United States census; third, that in case said board shall believe that said bids are not sufficiently definite or specific, or that in consequence of combinations, or from any cause, said bids are unreasonably high, it shall be at liberty to reject all proposals, in which case it shall proceed at once to re-advertise for proposals, as hereinbefore provided. (R. S. 1899, sec. 4692.)

Sec. 2. Proceedings when contract expires.—In case said award for said publication shall not be made until after the then existing contract for said printing shall have expired, the parties interested may, or in case of proceedings pending in court, the clerks thereof shall designate in what newspaper the publications required in the meantime to be made shall be printed; *and provided, further*, that in case of the suspension of the newspaper to which such contract shall have been awarded, or in case the said contract shall determine from any cause, the said board may proceed, in the manner hereinbefore stated, to make a new award of the publication of such notices, without waiting the expiration of two years. (R. S. 1899, sec. 4693.)

Sec. 3. Advertisements valid, when.—The publication of said advertisements, orders and notices, if made as aforesaid, in the newspaper so designated by said board or clerk, shall be valid and sufficient. But nothing in this chapter contained shall invalidate a publication of said notices, orders or advertisements published, by mutual consent and agreement of parties in interest, in some other newspaper; but all publications so made and agreed upon shall be as lawful and binding as though made in the newspaper so designated by said board or clerk. (R. S. 1899, sec. 4694.)

CHAPTER TWO.

ANIMALS—RESTRAINT OF.*

Sec. 4. Certain animals prohibited from running at large.—It is hereby enacted that in the city of St. Louis, and in the county of St. Louis, it is unlawful for any animal of the species of horse, cattle, mule, ass, swine, sheep, or goat to run at large or outside the inclosure of its owner, or be herded on land other than that of its owner; and whenever any such animal shall be found so running at large or outside of the inclosure of its owner, or being herded on land other than that of its owner in said city or county, it shall be lawful for any citizen of such city or county to arrest the same and deliver it forthwith to the constable of the ward or township or any marshal of any city or town in which it was arrested, and such constable or marshal shall receive and take charge of it; and it shall be the duty of every constable or marshal of such city or town, upon information given him by any citizen of such city or town, and the duty of every constable of said county, upon information given him by any citizen of said county, that any such animal is running at large or outside of the inclosure of its owner, or being herded contrary to the provisions of this article in the respective localities, to arrest the same, and to take all such animals, whether arrested by him or by a citizen, without delay before some justice of the peace within the jurisdiction of such constable or marshal, which justice shall record the size, color, age, sex, marks and brands, and any peculiarity of such animal by which its owner would more readily recognize it, and when said description is so entered, it shall be the duty of such justice to issue a notice, returnable in four days, directed to all whom it may concern, reciting the fact that such animal has been arrested and impounded in accordance with this act, and containing the description of such animal, and that the same will be advertised for sale if not redeemed within four days from the date of such notice, one copy of which notice shall be posted in or near the office of such justice by the constable or marshal, and another copy of such notice shall be served by the constable or

*Set out in Rev. St. 1899, pages 2557-2559. See, for general State law, Laws 1905, p. 47; Laws 1907, p. 65; Rev. St. 1899, Secs. 4767-4776; for Scheme and Charter provisions see Scheme, Art. 35; Charter Art. III, Sec. 26, clause 9; ordinances, see Rev. Code, Secs. 1576, 1577, 1578 and notation.

The above State act is constitutional: State to use vs. Aubuchon, 8 Mo. App. 325.

marshal on the owner or owners of such animal, if they be known, in like manner as a summons in a civil suit, and another copy of such notice shall be by him delivered to the officer having charge of stray-books in his jurisdiction and be by him immediately recorded in his book of strays and return such notice to such justice. (Laws 1877, p. 194, sec. 1.)

Sec. 5. Sale of animal, when directed and how conducted.—It shall be the duty of such justice, on the return day of such notice, the same or another notice issued by such justice having been first returned executed by such constable or marshal, unless such animal shall have been redeemed, to adjudge whether such animal was arrested in accordance with the provisions of this chapter, and if so, to make an order for the sale of such animal, and direct the same to such constable or marshal, whose duty it shall be to give notice of such sale by hand-bills containing such description of the animal to be sold, and the time, terms and place of sale, which hand-bills shall be put up by such constable or marshal at five of the most public places in the county, township, ward, town or city for which such constable or marshal may be acting, and deliver or send one to any person who such constable or marshal has reason to believe is the owner of such animal. Such sale shall be to the highest bidder for cash at public vendue, and so advertised for at least four days before the same takes place. Such constable or marshal, in the meantime, shall securely keep such animal in some place provided by him for that purpose, and feed the same plentifully. (Laws 1877, p. 194, sec. 2.)

Sec. 6. Release of animals, when claimed.—Whenever any person shall claim such animal so held, and make application for the return of the same before sale, such justice, upon being satisfied that the person so applying is the owner of the same, shall make an order for the delivery of the same to the applicant upon the payment of the costs and expenses incurred, and such justice shall note on the margin of the description kept by him of such animal, the date of such order and to whom given, which entries shall be open for inspection at all times by any person, free of charge. (Laws 1877, p. 195, sec. 3.)

Sec. 7. Certificate to be given in case of redemption.—When such animal is redeemed at any time before sale, such constable or marshal shall give to the party redeeming the same a certificate of redemption, and include in the same a bill of all costs and charges upon such animal, which costs and charges shall be paid by the party redeeming the same, and when a sale shall have been made under this chapter, he shall give to the purchaser, upon payment of the amount bid, a bill of sale, in which shall be stated the amount of the costs and charges attending the proceedings, which bill of sale shall be in the following form:

Sold, this — day of —, a domestic animal, described as follows: (here copy description in notice), for the sum of — dollars, the receipt for which is hereby acknowledged—said sale having been made in conformity with the stock law. Cost and charges \$—. —, constable (or marshal), and shall be *prima facie* evidence of the regularity of the proceedings and ownership of the animal; and the owner of such animal at the time the same was arrested shall be entitled to redeem the same at any time within six months after the day of sale, by paying to the purchaser all costs included in the bill of sale, with ten per cent per annum interest and the other costs and a reasonable compensation, to be determined by such justice, for keeping the same; but before the purchaser shall deliver up to any applicant such animal, such applicant shall obtain from such justice a certificate, which shall be noted in like manner as an order, to the effect that he is satisfied that such applicant is the owner of the same, and upon presentation of such certificate to such purchaser by such applicant, he shall have the right to redeem such animal, and no person purchasing at such sale shall sell such animal under six months from the date of such purchase, under a penalty of double the value of such animal, to be recovered by the former owner in a civil action. And in all proceedings under this article any party demanding the same shall have the right of a trial by jury. (Laws 1877, p. 195, sec. 4.)

Sec. 8. Proceeds of sale, how disposed of.—After any such animal shall have been redeemed as aforesaid, the purchaser at such sale shall be entitled to the remainder of the proceeds of the sale of the same, after deducting the amount of the costs and expenses paid to said officers, and the owner of such animal at the time the same was arrested shall be entitled to the remainder of such proceeds of sale after a like deduction, unless he shall elect to redeem the same. (Laws 1877, p. 195, sec. 5.)

Sec. 9. Fees of officers.—There shall be charged and collected by the officers charged with the enforcement of this article, the following fees: The constable or marshal shall receive for each head of horse, cattle, mule or ass arrested or received by him, as above provided, one dollar, and for each head of swine, sheep or goat, fifty cents; and for the impounding and keeping of each head of the former class, twenty-five cents per day, and the latter class, ten cents per day, and a reasonable compensation, to be determined by such justice, for the food given the same, and for advertising and selling the same, the same fees as are allowed for selling under

executions from justices' courts. Such justice shall charge and receive the sum of ten cents per hundred words and figures for all records had in the premises, and the same for any other act required to be done by him as may be allowed by law for similar services in other proceedings, and the officer for recording such notice the same fees as for recording certificates of strays. And any constable or marshal who shall fail or refuse to perform any duty imposed upon him by this article shall forfeit his office, and the tribunal having power to fill such vacancy shall remove him and appoint another in his place. (Laws 1877, p. 196, sec. 6.)

Sec. 10. **Dispositions of proceeds of sale.**—The proceeds of all sales provided for in this article, after deducting the costs and charges herein allowed, shall be retained in the hands of the constable or marshal making such sale, and his successor in office, for the proper payment of which he and his bondsmen shall be responsible, which net amounts, together with amounts paid to claimants, shall be reported, giving dates of receipts and payments under oath or affirmation by him at the end of every three months, beginning on the first day of July, 1877, to the treasurer of public funds for his jurisdiction, and if such balance of proceeds of any sale remain in his hands for the period of one year, the same shall be paid to such treasurer for the use of the public schools, and any failure to pay over any such sum for a period of thirty days after the same shall have become payable by him, shall subject such constable or marshal and his sureties to the payment of the same and interest at the rate of ten per cent per month, and an action shall be prosecuted for the payment of the same in the name of the state of Missouri for the use of such school fund. (Laws 1877, p. 196, sec. 7.)

Sec. 11. **Animals from adjoining county.**—If any animal, the owner of which resides in a county adjoining St. Louis county, and keeps such animal in such adjoining county, strays over the southern or western boundary line of said county anywhere between the Mississippi and Missouri rivers, for a distance not exceeding one mile from such county line, the same may be arrested by any citizen as provided in the first section of this article; but no further proceedings shall be had in such case, and no costs or charges shall be enforced against such owner, unless upon notice given him in writing by the party having such animal in charge, that the same has been so arrested, and he fails or refuses, for a period of two days after the service of such notice, to take such animal out of St. Louis county. (Laws 1877, p. 196, sec. 8.)

CHAPTER TWO. (A)

ART MUSEUM.*

Sec. 11a. **Authority for tax for art museum.**—When one hundred taxpayers of any city in this state which now has or may hereafter have four hundred thousand inhabitants or more shall petition the proper authorities asking that an annual tax of one-fifth of a mill on the dollar annually on all the taxable property in such city shall be levied for the establishment, maintenance or extension of a museum of art for the benefit of the public in such city, and shall ask that the question whether such a tax shall be levied be submitted to the voters of the city at a special or regular election, provided no special tax for an art museum shall then be subject to be levied, the proper authorities shall, if the petition specify a special election, call a special election, and the proper authorities shall, in legal notice of the special election or of the next regular election, if a special election be not specified in said petition, give notice that at such election every voter may vote "for a one-fifth mill tax for the art museum," or "against a one-fifth mill tax for the art museum," and if the majority of all the votes cast in such city upon such proposition for and against a one-fifth mill tax for the art museum shall be for the tax, the tax specified in such notice shall be levied and collected in like manner with other general taxes of said city, and the proceeds of said tax shall be known as "the art museum fund:" Provided, that such tax shall cease in case the legal voters of such city shall so determine by a majority vote at any annual election held therein: Provided further, however, that when a majority of the voters of such city shall have voted for a one-fifth mill tax for an art museum, the authorities, officials or representatives of the city whose duty it shall be to fix the tax rate for such city shall have the tax for an art museum at the rate specified in consideration in fixing the tax rate, and shall so fix said rate that with and including such tax for an art museum the constitutional limitation upon the taxing power of such city shall not be exceeded. (Laws 1907, p. 94, sec. 1.)

*This act of March 7, 1907, providing for the Art Museum (Session Laws 1907, p. 94), did not appear in time to be included in numerical order in the compilation, so is inserted here with alphabetical letters after the numerals. The authority conferred to submit the question, whether the tax for the art museum should be imposed, to the voters, was exercised by the city in ordinance 22903, approved March 19, 1907. The vote resulted in favor of the tax, and the museum was established in Forest Park.

Sec. 11b. Definition—Requirements.—An art museum for the benefit of the public for the purpose of this act shall be an institution for the collection and exhibition of pictures, statuary and other works of art, or whatever else may be of artistic interest and appropriate for exhibition in an art gallery or museum, for instruction in art, and in general, for the promotion by all proper means of aesthetic or artistic education, which shall conform to the following requirements: The exhibition galleries shall be open free to the public under proper and reasonable rules and regulations during suitable hours for a reasonable number of days in each week, including as a usual custom public holidays; and if admission fees or charges shall be collected at any time, the amounts thereof shall be held for expenditure only for the maintenance or extension of the art galleries and collection or other proper work of the institution as specified herein. (Ib., sec. 2.)

Sec. 11c. Appointment of board of control.—When in any city it shall have been decided by a vote in the manner provided in section 1 of this act [sec. 11a supra] that a tax shall be levied for an art museum, the mayor of such city shall, with the approval of the legislative branch of the municipal government, proceed to appoint an administrative board of nine members to control the expenditure of the art museum fund, unless and except there shall be at the time already constituted and in existence, operation and authority, an administrative board endowed by city ordinance or other legal authority with power to occupy or administer public property devoted by law to the uses of an art museum located in a public park or upon public property by virtue of municipal authority; and if there shall be such a board, such board and its successors shall be the board of control for the art museum fund under this act for all the purposes and possessing all the powers and charged with all the duties provided for such board in this act. (Ib., p. 95, sec. 3.)

Sec. 11d. Term of office—removal.—Said administrative board of control shall, when appointed by the mayor as provided by the preceding section, immediately assemble and elect one of its members to be president, and elect such other officers as it may deem necessary, and its members shall, at their first meeting, divide themselves into three classes, holding office one-third for one year, one-third for two years, and one-third for three years, dating from the first of June following their appointment, and annually thereafter said board shall, before the first of June of each year, elect members for the class whose terms are then expired and to fill vacancies in other classes, and said board shall have power, by and with the consent of the mayor and the legislative branch of the municipal government of said city, to add to its numbers and to adopt a by-law regulating the manner in which its members shall be chosen. The members of said board shall hold office for three years and until their successors are chosen, and no member of any board herein provided for shall receive compensation as such. The mayor may, by and with the consent of the legislative branch of the municipal government, remove any member of the board for misconduct or neglect of duty, and no member so removed shall be eligible to appointment upon said board thereafter. (Ib., sec. 4.)

Sec. 11e. By-laws—powers of board—finances.—Said board of control shall make and adopt such by-laws, rules and regulations for its own guidance and for the election of its members and for the administration of the art museum fund as they may deem expedient, and as may not be inconsistent with this act; they shall have exclusive control of the expenditure of all moneys collected to the credit of the art museum fund, and of the construction and maintenance of any art museum building built or maintained, in whole or in part, with the moneys of said fund, and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for the purpose of an art museum under the authority conferred by this act: Provided, however, that all moneys received for such art museum fund shall be deposited in the treasury of said city to the credit of the art museum fund, and shall be kept separate and apart from other moneys of such city, and shall be drawn upon by the proper officers of such city upon the properly authenticated vouchers of the art museum board. Said board shall have the power to purchase or lease ground and to occupy, lease or erect an appropriate building or buildings for the use of said art museum; shall have power to appoint a director and necessary assistants and fix their compensation, and shall also have power to remove such appointees, and shall in general carry out the spirit and intent of this act in establishing and maintaining an art museum. (Ib., sec. 5.)

Sec. 11f. Museum, how far free to public—further powers of board.—Every art museum established under this act, or established or maintained in whole or in part from the proceeds of an art museum fund established under this act, shall be forever free to the use of the inhabitants of the city wherein it shall be located, so long as the art museum tax shall continue to be operative therein, subject always to such reasonable rules and regulations as the administrative board may adopt in order to render the use of such art museum of the greatest benefit and efficiency to the greatest number: Provided, however, that said board of control shall have power to exclude from the use of said art museum any and all persons who shall

willfully violate such rules, and shall have power to make a reasonable charge for admission to the galleries or classes upon certain days other than public holidays, within their discretion, and shall have power to extend the privileges and uses of such museum to persons residing outside of said city upon such terms and conditions as said board may from time to time by its regulations prescribe. (Ib., p. 96, sec. 6.)

Sec. 11g. Report by board.—The said board of control shall make, before the second Monday in June, an annual report to the legislative branch of the municipal government, stating the condition of their trust on the first day of May of that year, the various sums of money received from the art museum fund and from other sources and how such moneys have been expended and for what purposes, the number and character of the acquisitions to the collections added by purchase, gift or otherwise during the year, together with the number at the beginning of the year, and such information and suggestion as they may deem of general interest. All such portions of said report as relate to the receipt and expenditure of money, as well as to the number and value of the collections and description and value of the property, shall be verified by affidavit. (Ib., sec. 7.)

Sec. 11h. What ordinances city may enact.—The legislative authority of said city shall have power to enact ordinances imposing suitable penalties for the punishment of persons committing injury upon said art museum or the grounds or collections or property thereof. (Ib., sec. 8.)

Sec. 11i. Donations and bequests—title how vested.—Any person desiring to make loans of art objects, or donations, devises or bequests of money, objects of art or other personal property or real estate, for the benefit of such art museum, shall have the right to vest the title to such property so donated, devised or bequeathed in the board of control provided for by this act, to be held and controlled by such board, when accepted according to the terms of the deed, gift, devise or bequest of such property, and as to such property the said board shall be held and considered to be special trustees, and said board shall have power to accept the trust of such donations, devises or bequests. (Ib., sec. 9.)

Sec. 11j. Emergency.—The fact that many cities and towns in this state have no art museum established therein creates an emergency within the meaning of the Constitution; therefore, this act, shall take effect and be in force upon and after its passage. (Ib., p. 97, sec. 10.)

CHAPTER THREE.

BONDS, INDEMNIFYING, TO OFFICERS.*

Sec. 12. Bond may be exacted, when.—When any sheriff, marshal, constable or other duly authorized officer shall levy an execution or attachment on any personal property, and any person other than the defendant in such execution or attachment shall claim such property or any interest therein, such officer may demand of the plaintiff or his agent, in such execution or attachment, a sufficient indemnification bond, with at least two good and sufficient sureties, to be approved of by such officer, and may refuse to execute such execution or attachment until such indemnification bond be given. (Laws 1855, p. 464, sec. 1; R. S. 1899, p. 2550.)

Sec. 13. Form of bond.—Such bond shall be made payable to the State of Missouri, conditioned that such plaintiff will pay to such claimant all damages that he, the said claimant, may sustain in consequence of such levy, and in consequence of any sale which may be made under or by virtue of such execution or attachment; and the officer taking such bond shall return the same with such execution or attachment. (Laws 1855, p. 464, sec. 2; R. S. 1899, p. 2550.)

Sec. 14. Claim to be in writing.—No claim made to any personal property levied on as aforesaid shall be valid or lawful as against such officer, unless such claimant or his agent shall set forth his claim in writing, verified by the affidavit of such claimant or his agent, describing the property claimed and stating his interest therein, and whether it is in the whole or only part thereof, and stating also that he is in good faith the lawful owner of the interest claimed by him in said property; that the defendant in such execution or attachment has no right or title, directly or indirectly, in the interest in said property claimed by said claimant, and

*Sec. 6 of the act of 1859 (see *infra*), makes the act applicable only to the county (now city) of St. Louis. The amendment of 1859 (Laws 1858-9, p. 440; see also *State ex rel. vs. Lumber Co.*, 170 Mo. 11-12) does not repeal the act of 1855 as to condition of the bond; and the claim must be made in conformity with the statute or the officer will not be protected: *St. Louis Dairy Co. vs. Sauer*, 16 Mo. App. 1. The officer may waive a formal written claim to property seized and, notwithstanding the informality of the claim, the claimant may maintain an action on the indemnity bond: *State vs. Smit*, 20 Mo. App. 50. This statute is local to St. Louis and emphasizes the fact that a failure to provide a similar remedy throughout the State is a *casus omissus* of the Legislature: *Smith ex rel. vs. Rogers*, 191 Mo. 334, 342. The constitutionality of the act was attacked, but not much discussed in *State ex rel. vs. Lumber Co.*, 170 Mo. 7.

that such claim is not made in collusion with said defendant for the purpose of vexing, hindering or delaying the plaintiff in obtaining his just rights. (Laws 1855, p. 464, sec. 3; R. S. 1899, p. 2550.)

Sec. 15. Action on bond.—If the claimant shall be injured or damaged in consequence of any levy or sale under or by virtue of such execution or attachment, and shall in good faith be the owner of the interest claimed by him in the property levied on or sold as aforesaid, he, the said claimant, may bring a civil action on such bond in the name of the state, to his own use, against such plaintiff and his sureties, or any or either of them, in the usual manner of bringing actions on penal bonds, or may proceed thereon by motion in open court, first giving to the parties proceeded against in said bond twenty days' notice of such motion. (Laws 1855, p. 465, sec. 4; R. S. 1899, p. 2551.)

Sec. 16. Officer, when not liable.—When said sheriff or other officer aforesaid shall take an indemnification bond as aforesaid, with good and sufficient security, he shall not be liable to such claimant for any damage or injury sustained by such claimant in consequence of such levy or sale under or by virtue of such execution or attachment. (Laws 1855, p. 465, sec 5; R. S. 1899, p. 2551.)

Sec. 17. Officer, when liable.—If the security in such indemnification bond shall be adjudged insufficient, such sheriff or other officer aforesaid and his securities shall be liable to all parties injured in the same manner and to the same extent as if no such indemnification bond had ever been given, unless an additional indemnification bond be given and approved by the court or judge thereof, as hereinafter provided. (Laws 1855, p. 465, sec. 6.)

Sec. 18. Objections, how made.—No objections to the security in any such indemnification bond shall be allowed, if the same be not made by or for the party interested therein, in writing, within the first six days after the return day of such execution or attachment, unless the time for making such objections be extended for good cause by the court, and all of said objections shall be made in the court to which such writ is returnable, and not elsewhere. (Laws 1855, p. 465, sec 7; R. S. 1899, p. 2551.)

Sec. 19. Effect of overruling objections.—If such objections shall be overruled by the court, such indemnification bond, and the security therein, shall be deemed good and sufficient, so far as the liability of such sheriff or other officer aforesaid is concerned; but if such security shall be adjudged insufficient, the court may, on motion of said claimant or sheriff, or other officer aforesaid, order an additional indemnification bond to be given and filed in the suit within a certain time fixed by the court, and if such additional bond shall be given, and the security therein be approved of by such court, or the judge thereof, then such sheriff or other officer aforesaid shall be entitled to the protection of this act, the same as if he had taken good and sufficient indemnification bond. (Laws 1855, p. 465, sec 8; R. S. 1899, p. 2551.)

Sec. 20. Officer, when not protected.—If such indemnification bond shall not be given within the time fixed by the court, then, and in that case, the officer levying or selling shall not be protected under this act, but the court may, in its discretion, order the said sheriff or other officer aforesaid not to pay over to the plaintiff any money made, acquired, received or obtained under or by virtue of any such levy or sale, until such additional bond be given and approved by such court or judge. (Laws 1855, p. 465, sec 9; R. S. 1899, p. 2551.)

Sec. 21. Proceedings in case of more than one claimant.—Where more than one claim is made to any property levied on by any sheriff, marshal, constable or other duly authorized officer, the same proceedings shall take place in regard to each of such claims as is prescribed in regard to a claim in this act, and in the act to which it is amendatory. (Laws 1858-9, p. 438, sec 1; R. S. 1899, p. 2552.)

Sec. 22. Claim to state value of property.—Every claim made under this act, or the act to which it is amendatory, shall state the value of the property or interest claimed, and the indemnification bond demandable of the plaintiff or his agent shall be in double the value stated in the claim; but if such value is objected to by the plaintiff or his agent, the officer having the property in custody shall proceed to ascertain the real value of such property or interest claimed, in the same manner as is prescribed by the law for the time being for the valuation of property exempt from execution; and in such cases said indemnification bond shall be in double the value of such property or interest as ascertained by such appraisement. Any indemnification bond taken as aforesaid, with good and sufficient security, shall be deemed an indemnification bond within the meaning of the act to which this act is amendatory; and every such indemnification bond shall be conditioned as the bond which, by the thirtieth section of the "act to regulate executions," approved December 1, 1855, chapter 63 of the Revised Statutes of 1855, the plaintiff may tender to the sheriff after claim made to goods levied on under execution. (Laws 1858-9, p. 439, sec. 2; R. S. 1899, p. 2552.)

Sec. 23. When court may require bond.—Whenever suit is brought against any sheriff, marshal, constable or other duly authorized officer, or his sureties, or the representatives of any of them, on account of any levy on or sale of any property, or interest therein, and notice of such levy or sale was made, said court shall not order the payment of the proceeds of such sale to the party or parties who may appear to be entitled to the same, unless such parties shall have given a bond, as required in the preceding section of this act, or shall forthwith give such bond. The court in which such suit is brought may, in its discretion, permit any person who has given bond as aforesaid to be joined as defendant in such suit. If, in any such suit, the plaintiff shall establish his right to any property or interest levied on or sold as aforesaid, the officer against whom such suit is brought, his sureties and the legal representatives of any of them, shall thereupon have a right to recover back any money paid as made on the levy or sale to which such suit related, and if such levy or sale was made by direction or authority of any person interested in the same, or his agent, shall also have a right to recover of the person so directing or authorizing such levy or sale, all damages which such officer, his sureties or the legal representatives of any of them, may have paid on account of any such levy or sale. (Laws 1858-9, p. 440, sec. 3; R. S. 1899, p. 2552.)

Sec. 24. Proceedings for the distribution of money, etc.—Whenever money made on any execution or executions, or other writ or writs, is brought into the court out of which the eldest of such executions or other writs was issued, such court shall order the distribution or payment of such money on the motion of any person interested therein, and on such notice as the court may, by rule or otherwise, direct. On his compliance with such order, the officer returning such execution or executions, or other writ or writs, shall be discharged of his liability for such money; but from any such final order an appeal shall lie as in other cases, and nothing herein contained shall be construed to discharge any officer from liability for not properly executing any process, or for a false return thereon. (Laws 1858-9, p. 440, sec. 4; R. S. 1899, p. 2552.)

Sec. 25. Bond under claim for specific property.—In a suit for the possession of specific personal property, the bond required of the plaintiff, and that which may be given by the defendant, shall be in double the sum stated in the affidavit as the value of the property claimed; but the defendant or his agent may, on the taking of the property claimed, or at any time before the delivery of the same to the plaintiff, demand in writing, an appraisement thereof, which appraisement shall then be made in the same manner as by the law, for the time being, appraisement is directed to be made of property exempt from execution; and if such appraised value exceed the value stated in the affidavit, then such property shall not be delivered to the plaintiff unless a new bond be given in double such appraised value, and in other respects similar to the bond required of the plaintiff, by the law for the time being, before the delivery of property so claimed. (Laws 1858-9, p. 440, sec. 5.)

Sec. 26. Nature and extent of this act.—This act, and the act to which it is amendatory, shall be public acts, and shall apply only to the county (city) of St. Louis; and this act shall take effect from its passage. Approved March 14, 1859. (Laws 1858-9, p. 440, sec. 6; R. S. 1899, p. 2553—*e.*)

CHAPTER FOUR.

OF BRIDGES AND TUNNELS.

Section 27. Power to build or acquire bridges and tunnels, and maintain approaches to same.—All cities in this state having one hundred thousand inhabitants or over are hereby given the power and authority to build or acquire by purchase, lease, gift or otherwise, within their corporate limits or within a reasonable distance outside thereof, a bridge or bridges, or a tunnel or tunnels for public use by railroads, street cars, vehicles of all kinds and pedestrians, over or under rivers and streams in Missouri or those forming a boundary between this and other states, and to acquire, hold, use and retain by purchase, lease, gift or otherwise, land to be used for approaches for and in the construction, operation and maintenance of said bridge or bridges, tunnel or tunnels, in this and other

(*e.*) See note at head of chapter.

states, and to maintain, use and operate said bridge or bridges, tunnel or tunnels, either as toll or free bridges or tunnels, as may by said cities be deemed expedient. (Laws 1905, p. 94—a.)

CHAPTER FIVE. OF COURTS.

Art. I. Attorneys, Circuit and Prosecuting.
Art. II. Circuit Court.
Art. III. Probate Courts.
Art. IV. St. Louis Court of Criminal Correction.

Art. IVa. Court of General Sessions.
Art. V. Juries.
Art. VI. Justices of the Peace and Constables.
Art. VII. Juvenile Court.

ARTICLE I.

ATTORNEYS, CIRCUIT AND PROSECUTING.*

Sec. 28. **Election of circuit attorney for city of St. Louis.**—At the general election to be held in this state in the year 1892, and every four years thereafter, there shall be elected in the city of St. Louis one circuit attorney, who shall reside in said city, and shall possess the same qualifications and be subject to the same duties that are prescribed by this act for prosecuting attorneys throughout the state, and it shall be the duty of the city register of said city to transmit to the secretary of state an abstract of the votes given for each candidate for circuit attorney in said city, in the same manner as is required by law of clerks of county courts. (R. S. 1899, sec. 4959—Amended Laws 1907, p. 70—b.)

Sec. 29. **Duties of assistant circuit attorney.**—It shall be the duty of such [the] assistant to aid generally in the performance of the same duties as are by law enjoined on the prosecuting attorney, and he shall be subject to the same fines and penalties for misdemeanor in office or neglect of duty. (R. S. 1899, sec. 4960—c.)

Sec. 30. **Prosecuting and assistant prosecuting attorney of St. Louis.**—At the general election to be held in this state in the year 1890 and every four years thereafter, there shall be elected in the city of St. Louis, for the St. Louis court of criminal correction, one prosecuting attorney and one assistant prosecuting attorney, who shall reside in said city and shall possess the same qualifications and be subject to the same duties as are now provided by law for the government of said officers; and the duty of transmitting the abstract of the votes by which said officers are elected, heretofore devolving upon the county clerk, shall be performed by the register of said city, as provided in section 4959, R. S. 1899. (R. S. 1899, sec. 4961—d.)

Sec. 31. **Compensation of prosecuting and circuit attorney of St. Louis.**—The circuit attorney, the prosecuting attorney and assistant prosecuting attorney of the city of St. Louis, shall receive the same compensation, payable in like manner, as is now provided by law. (R. S. 1899, sec. 4962—Amended Laws 1907, p. 70—e.)

Sec. 32. **Governor to commission.**—The attorney-general, prosecuting attorneys, the circuit attorney, the prosecuting attorney and assistant prosecuting attorney for the city of St. Louis, shall be commissioned by the governor and shall hold their offices until their successors are elected, commissioned and qualified. (R. S. 1899, sec. 4963; Amended by Laws 1907, p. 70—f.)

(a) See also Laws 1903, p. 57. For ordinance authorizing issuance of bonds for free bridge across the Mississippi from St. Louis, see ord. No. 22366. The validity of these bonds was sustained by the circuit court and at this writing the matter is pending after submission in the Supreme Court in the case of Haeussler et al vs. St. Louis et al. And for acts of Congress relative to a bridge across that river at St. Louis, see act approved June 25, 1906, (requiring same to be built as required by act of March 23, 1906) and see also act of Feb. 27, 1901. That the city has no power to cause or permit obstruction of a navigable stream, such being a national highway, see *West Chicago Ry. vs. Chicago*, 201 U. S. 506; *State ex rel. vs. Longfellow*, 169 Mo. 109; *Myers vs. St. Louis*, 82 Mo. 367, affirming s. c. 8 Mo. App. 266; see also s. c. 113 U. S. 566.

*Laws 1905, p. 51, herein below set out, (which is in turn amended in Laws 1907, p. 70) expressly repeals the act of March 18, 1901, (Laws 1901, p. 48) and also all inconsistent acts. As there may be some question as to how far the then existing laws are affected, the latter are set out in full in the next succeeding sections.

(b) The amendment by Session Laws 1907 consists in omitting the words "and one assistant circuit attorney."

(c) Presumably this section is to be regarded as superseded.

(d) Office and functions of assistant prosecuting attorney not abolished by Laws 1877, p. 354; information properly lodged with that officer: *State vs. Speritus*, 191 Mo. 24, 38; *State vs. Daly*, 49 Mo. App. 184. An Assistant may generally act in the same manner and to the same extent as the Prosecuting Attorney: *Browne's Appeal*, 69 Mo. App. 159 (Kansas City officer).

(e) See Laws 1905, secs. 5 and 6, as amended by Laws 1907, p. 70, set out below, with respect to compensation. The act of 1907 amends the above section 31 by omitting the words "and assistant Circuit attorneys."

(f) The 1907 amendment consists in omitting the words "and assistant circuit attorney."

Sec. 33. Vacancies, how filled.—If any vacancy shall happen for any cause in the office of attorney-general, circuit attorney, prosecuting attorney or assistant prosecuting attorney, the governor, upon being satisfied that such vacancy exists, shall appoint some competent person to fill the same until the next regular election for attorney-general, prosecuting attorney, or assistant prosecuting attorney, as the case may be. (R. S. 1899, sec. 4964; Amended Laws 1907, p. 70—*g.*)

Sec. 34. Prosecuting attorney, when to appear in St. Louis Court of Appeals.—Every prosecuting attorney of any county within the jurisdiction of the St. Louis court of appeals, and every circuit attorney of a judicial circuit within the jurisdiction of said court, shall appear in behalf of the state in the St. Louis Court of Appeals, and prosecute or defend, as the case may require, all appeals and writs of error to which the State may be a party, which may at any time be removed by appeal or writ of error from any court in the county of such prosecuting attorney, or the city or county of said circuit attorney, to said St. Louis Court of Appeals. (R. S. 1899, sec. 4965.)

Sec. 35. Compensation in certain cases.—All such prosecuting and circuit attorneys shall, for their services under the preceding section, receive the same fees as are or may be by law allowed for like services in the Supreme Court. (R. S. 1899, sec. 4966—*h.*)

Sec. 36. Circuit attorney may employ clerk.—Any circuit attorney for any city having a population of two hundred thousand inhabitants or more is hereby authorized and empowered to appoint a clerk, who shall be a citizen of the United States and of the State of Missouri, who shall hold said office from month to month, and shall be removable at any time, at the option of said circuit attorney. (R. S. 1899, sec. 4967—*i.*)

Sec. 37. Duties of clerk.—It shall be the duty of said clerk to attend to all duties assigned him by said circuit attorney, appertaining to his said office, and during his employment shall be under the direction of said circuit attorney. (R. S. 1899, sec. 4968.)

Sec. 38. Salary, how paid.—The said clerk so appointed shall receive a monthly salary not exceeding two hundred dollars, payable at the end of each month by the treasurer of said city, upon presentation to said treasurer of vouchers duly approved and certified by said circuit attorney. (R. S. 1899, sec. 4969.)

Sec. 39. Prosecuting and circuit attorneys to devote entire time to duties.—It shall be the duty of the prosecuting and circuit attorneys, and of the assistant circuit and prosecuting attorneys, of the courts of this state having jurisdiction of criminals within cities in this state which now have and which may hereafter have one hundred thousand inhabitants or more, to devote their entire time and energy to the discharge of the duties appertaining to their respective offices. (R. S. 1899, sec. 4978.)

Sec. 40. Not to accept employment of others, except in civil cases.—It shall be unlawful for either of the officers specified in the preceding section, during the term of office for which he shall have been elected or appointed and qualified, to accept any employment by any party, except in civil cases, other than the State of Missouri. Any violation of the provisions of this section shall be deemed a misdemeanor, to be punished as in this act prescribed. (R. S. 1899, sec. 4979.)

Sec. 41. Not to accept fee or reward, except salary.—It shall be unlawful for any officer specified in section 4978 to contract for, directly or indirectly, or to accept, receive or take any fee, reward, promise or undertaking, or gift or valuable thing of any kind whatsoever, except the salary of his office prescribed by law, for aiding, advising, promoting or procuring any indictment, true bill or legal process of any kind whatsoever against any person or party, or for aiding, promoting, counseling or procuring the detection, discovery, apprehension, prosecution or conviction of any person upon any charge whatsoever; or for aiding, advising or counseling of or concerning, or for procuring, promoting or effecting the discovery or recovery, by any means whatever, of any valuable thing which shall be secreted or detained from the possession of the owner or lawful custodian thereof. (R. S. 1899, sec. 4980.)

Sec. 42. Violation of act forfeits, office.—If any officer specified in section 4978 shall be convicted of the violation of any of the provisions of sections 4979 and 4980, he shall forfeit the office to which he shall have been elected or appointed and qualified. (R. S. 1899, sec. 4981.)

Sec. 43. Penalty for same—bribery.—Any officer specified in section 4978 who shall be convicted of the violation of any of the provisions of section 4980 shall be deemed guilty of bribery, and shall, upon conviction, thereof, be punished by confinement in the penitentiary for a term not exceeding seven years. (R. S. 1899, sec. 4982.)

(*g*) Same as preceding note.

(*h*) See Laws 1905, *infra*.

(*i*) *Ibid.* as to employment of clerks under the present laws.

Sec. 44. May be suspended upon indictment—Governor to appoint successor.—Any officer specified in section 4978 who shall be indicted for the violation of section 4980 may, in the discretion of the court of which he is an officer, or of the judge thereof, by an order of record in the records of such a court, be suspended from the office to which he shall have been elected or appointed and qualified, until said indictment shall have been disposed of in favor of such officer, or until said officer shall have been acquitted thereon by the verdict of a jury. And in case of such suspension, the court making the same shall forthwith transmit, by mail, to the Governor of the state of Missouri, a copy of said order of suspension, certified under the seal of said court by the clerk thereof, and upon the receipt of said certified copy of said order of suspension, it shall be the duty of the Governor immediately to appoint and commission a successor to such suspended officer, which successor shall possess the qualifications for said office prescribed by law, and shall, during said suspension, perform the duties and receive the salary prescribed for said office by law. (R. S. 1899, sec. 4983.)

Sec. 45. Restoration to office—prosecution of indictment.—If upon a trial of such suspended officer upon the indictment by reason whereof such suspension was made, such officer shall be acquitted by the verdict of the court having jurisdiction thereof, then said suspended officer shall, by an order of the court by which said suspension was made of record, be restored to the office from which he shall have been suspended, and the commission and authority of the successor of such suspended officer shall thereupon cease and determine: *Provided*, that when the Governor shall appoint and commission a successor to such suspended officer, as hereinbefore provided, the prosecution of the indictment upon the faith whereof such suspension was made shall be conducted by the successor so appointed and commissioned. (R. S. 1899, sec. 4984.)

Act of March 13, 1905, as Amended March 30, 1907.

Sec. 46. In St. Louis circuit attorney to appoint five assistants—how made—powers and duties.—In every judicial circuit of the state, which circuit embraces a city which now may have, or which may hereafter have, a population of three hundred thousand inhabitants or more, the circuit attorney of such circuit is hereby authorized and empowered to appoint five assistant circuit attorneys. Such appointments shall be in writing and approved by a majority of the judges of the criminal division of the circuit court of such circuit, and when so approved, shall be entered upon the minutes of all the courts of said circuit exercising criminal jurisdiction. Before entering upon the duties of their office, such assistants shall be severally sworn to support the Constitution of the United States and to faithfully demean themselves in office, and their duties shall be to assist the circuit attorney generally in conduct of his office, under his direction and subject to his control; and said circuit attorney and his assistants shall institute and prosecute all criminal actions in all courts of said circuit exercising criminal jurisdiction (except the court of criminal correction in the city of St. Louis). (Laws 1907, p. 70 amending laws 1905, p. 51, sec. 1—j.)

Sec. 47. Clerks' and stenographers' duties.—Said circuit attorney may also appoint five clerks or stenographers, whose duty it shall be to act as clerks or stenographers to the circuit attorney, and, when so directed by the circuit attorney, said stenographers shall take down and transcribe for the use of the circuit attorney, evidence before the grand jury or before any court of said circuit exercising criminal jurisdiction or before the coroner at any inquest. But before taking down any evidence before the grand jury, such stenographer shall be sworn to secrecy and shall not divulge any testimony which he may there have heard except to the circuit attorney, or when lawfully required to do so, in any court of record. Said stenographer shall also perform such other services as the circuit attorney may direct. (Laws 1905, p. 51, sec. 2.)

Sec. 48. Tenure.—The assistant circuit attorneys, clerks and stenographers appointed under the provisions of this act shall hold office from month to month and shall be removable at any time by the circuit attorney at his option. (Laws 1905, p. 52, sec. 3.)

Sec. 49. Assistant attend grand jury.—Said assistant circuit attorneys, when so directed by the circuit attorney, may attend upon the grand jury. (Laws 1905, p. 52, sec. 4.)

Sec. 50. Salaries.—Said assistant circuit attorneys appointed under the provisions of this act, shall each receive a salary of three thousand dollars a year. The clerks or stenographers appointed under this act shall each receive a salary not to exceed twelve hundred dollars a year, each. Such salaries shall be payable in monthly

(j) Authority of assistant prosecuting attorneys in St. Louis (before these acts): *State vs. Spiritus*, 191 Mo. 24, 38. The amendment to the above section in 1907 (Acts 1907, p. 70) increases the assistants from four to five, because in the same the provisions for the assistant circuit attorney is repealed.

installments at the end of each month out of the treasury of the city in such circuit having the population above prescribed. (Laws 1905, p. 52, sec. 5.)

Sec. 51. Compensation of circuit attorney—disposition of fees.—The circuit attorney of such circuit shall receive in lieu of all fees in criminal cases and in lieu of all other salary, a salary of five thousand dollars a year, payable monthly at the end of each month from the treasury of said city. The circuit attorney's fees shall continue to be taxed as heretofore, but when collected, shall be turned into the treasury of said city. All circuit attorney's fees in criminal cases not paid by the state shall be collected by the clerk of the criminal division of the circuit court and by him paid into the treasury of said city. When such fees are paid by the state, they shall be paid into said city treasury in the manner now provided by law. (Laws 1905, p. 52, sec. 6.)

Sec. 52. Fees—contingent fund—disposition.—The treasurer of said city shall set aside the circuit attorney's fees so turned into the treasury of said city to be used as a contingent fund for the circuit attorney for the payment of the incidental expenses in bringing parties and witnesses from other states or countries and in properly preparing causes for trial, attending trial on changes of venue, attending at the taking of depositions, in printing briefs, and appearing before the appellate courts of the state, and generally such expenses as he may be put to in the proper and vigorous prosecution of the duties of his office. Such fund shall be paid out as needed to the circuit attorney by the said city treasurer out of said funds in the treasury of said city not exceeding five thousand dollars in any year upon warrant of the circuit attorney approved and signed by the judges of the criminal division of the circuit court of said circuit. At the end of each year said treasurer shall pay into the general revenue fund of such city any balance that may be in his hands from fees so collected exceeding the sum of one thousand dollars. (Laws 1905, p. 52, sec. 7.)

Sec. 53. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby repealed. (Laws 1905, p. 52, sec. 8.)

Sec. 54. Emergency.—The present inadequacy of the force of assistants and other officers to the circuit attorney, and the lack of provisions for the payment of the incidental expenses of circuit attorney's offices, creates an emergency within the meaning of the constitution; therefore, this act shall take effect and be in force from and after its passage. (Laws 1905, p. 52, sec. 9.)

Approved March 13, 1905.

Act of April 15, 1907.

Sec. 54a. Circuit attorney may appoint assistant, and deputy.—In every judicial circuit of the State, which circuit embraces a city which now may have or which may hereafter have a population of three hundred thousand inhabitants or more, the circuit attorney of such circuit, in addition to the number of assistant circuit attorneys and clerks already authorized under existing laws, is hereby authorized and empowered to appoint one additional assistant circuit attorney and one deputy circuit attorney, whose duties it shall be to assist the circuit attorney generally in the conduct of his office, under his direction and subject to his control. Such appointment shall be in writing and approved by a majority of the judges of the criminal division of the circuit court of such circuit, and when so approved shall be entered upon the minutes of all the courts of said circuit exercising criminal jurisdiction. Before entering upon the duties of their office, such additional assistant circuit attorneys and deputy circuit attorneys shall be severally sworn to support the Constitution of the United States and to faithfully demean themselves in office.

Sec. 54b. Duty of assistant—removal.—The additional assistant circuit attorney and deputy circuit attorney appointed under the provisions of this act shall hold office from month to month, and shall be removable at any time by the circuit attorney at his option.

Sec. 54c. Salary.—Said additional assistant circuit attorney, appointed under the provisions of this act, shall receive a salary of three thousand dollars a year. The deputy circuit attorney, appointed under this act, shall receive a salary not to exceed eighteen hundred dollars a year. Such salaries shall be payable in monthly installments at the end of each month, out of the treasury of the city in such circuit having a population above prescribed.

Sec. 54d. Emergency.—The passage of an act creating the St. Louis Court of General Sessions to hear and determine all preliminary examinations of charges of felony and certain misdemeanors, and imposing upon the circuit attorney of the city of St. Louis and his assistants the duty of instituting and conducting prosecutions in behalf of the state in the said St. Louis Court of General Sessions, and the present inadequacy of the force of assistants to the circuit attorney creates an emergency within the meaning of the Constitution; therefore, this act shall take effect and be in force from and after its passage.

ARTICLE II.

COURTS, CIRCUIT.

Sec. 55. Constitutional provision.—The circuit court of St. Louis county [city] shall be composed of five judges, and such additional number as the general assembly may from time to time provide. Each of said judges shall sit separately for the trial of causes and the transaction of business in special term. The judges of said circuit court may sit in general term, for the purpose of making rules of court, and for the transaction of such other business as may be provided by law, at such time as they may determine, but shall have no power to review any order, decision or proceeding of the court in special term. (Cons. Mo. (1875) Art. VI., sec. 27; R. S. 1899, p. 2533—*k*.)

Sec. 56. Number of judges on St. Louis circuit.—From and after the taking effect of this act the circuit court of the city of St. Louis shall be composed of twelve judges. (Laws 1905, p. 127, sec. 1.)

Sec. 57. Judge for short term.—Immediately on the taking effect of this act, the governor shall appoint one judge of the circuit court for a term ending on the 31st day of December, 1906, and the additional judge hereby provided for shall possess the same qualifications and shall receive the same compensation and from the same source as the present judges of said circuit court. (Ib., sec. 2.)

Sec. 58. Election, etc.—At the general election held in the city of St. Louis in November, 1906, a successor to such additional judge hereby created shall be elected for a term of six years, and thereafter his successor shall be elected for the same term. (Ib., sec. 3.)

Sec. 59. Criminal causes—general term arrange docket—grand jury to attend.—Immediately upon the taking effect of this act, or as soon thereafter as may be practicable, the judges of the circuit court of the city of St. Louis sitting in general term, shall assign three or more of their number, who shall sit separately for the trial of criminal causes then or thereafter pending in said court, and for the disposition of such other business arising under the criminal jurisdiction of the court as may come before it, and to whom thereupon shall be transferred for trial and disposition in such proportions between themselves as said court in general term shall determine. The judges so assigned for the trial of said criminal cases and the disposition of other business arising under the criminal jurisdiction, shall try and dispose of the cases so transferred to them, and conduct the business arising under said criminal jurisdiction during such time or times as the court in general term may direct, and said general term shall from time to time replace the judges so assigned to try such criminal cases and despatch said criminal business with others of its members selected by it to that end and as far as practicable alternately and in rotation, so that from time to time each of their number shall in turn serve in the transaction of the criminal business of the court [unless the judges, sitting in general term, shall, in their discretion, excuse any member of the court from so serving].

And it shall be the duty of the judges sitting in general term to at all times so arrange the dockets of said court that the trial and disposition of criminal cases and proceedings shall have precedence over those of civil action pending therein, and to that end shall from time to time assign as many judges of said court for the trial of criminal causes as may be necessary. After the taking effect of this act, a grand jury shall be summoned each term to attend upon such divisions assigned to criminal business as said court in general term may direct. It shall be charged with regard to its duties by the judge of said court sitting in said division, and it shall return all indictments by it found and deliver all reports by it made into said division. (Laws 1905, p. 127, sec. 4; and Laws 1905, p. 128, sec. 35—*l*.)

Sec. 60. Inconsistent acts repealed.—All acts and parts of acts inconsistent with this act are hereby repealed. (Laws 1905, p. 128, sec. 5.)

Sec. 61. Jurisdiction of common pleas, land and law commissioner's court transferred to the circuit court.—On the first day of January, 1866, all jurisdiction then vested in the Saint Louis court of common pleas, the St. Louis land court and the law commissioner's court of St. Louis county, and all powers then vested in the judges of said courts, shall be transferred to, vested in and thereafter exercised by the circuit court of St. Louis county [city] and the judges thereof, as said court

(*k*) Section construed and the relation between the divisions of the circuit in St. Louis discussed, see: *Haehl vs. Wab. Ry.*, 119 Mo. 325; *State ex rel. vs. Withrow*, 133 Mo. 500; *Voullain vs. Voullain*, 45 Mo. 602.

Under the power to increase the number of judges, statutes to that effect were from time to time enacted, the present statute fixing the number at twelve, as per next section. The last prior law created two new judges (then making eleven) and appears in Laws 1903, p. 142; the number was made nine in 1895: Laws 1895, p. 121.

(*l*) The portion enclosed in brackets is an amendment to the old law, and was passed at the 1905 session, being approved April 6, 1905, while at the same session another act incorporating the remaining provisions was enacted, being approved March 21, 1905. Reading the two together, it is thought the law is as appears above. This section supersedes the former law as appears *infra* in Sec. 84.

will become constituted under the fifteenth section of the sixth article of the constitution of this state. (Laws 1855-6, p. 71, sec. 1; Cons. 1865, art. VI., secs. 14 and 15; R. S. 1899, p. 2533, sec. 2.)

Sec. 62. Unfinished business of said courts transferred to circuit court.—On that day, all unfinished business remaining in any of said first named three courts shall be transferred to said circuit court, by which the same shall be proceeded with, determined and closed up in the same manner as might have been done by those courts, respectively, if they had continued in existence. In all cases so transferred the said circuit court shall take judicial notice of all entries of record made therein before the transfer thereof. (Laws 1865-6, p. 71, sec. 2; R. S. 1899, p. 2534, sec. 3.)

Sec. 63. Certain cases to be remanded to circuit court from supreme court.—All cases which, prior to said day, may have been taken by appeal or writ of error from any of said first named three courts to the Supreme Court shall, upon any decision of the Supreme Court thereafter made remanding the same, be remanded to said circuit court and be there proceeded with as if the same had been taken from that court; and if any party to an action or proceeding in any of said first named three courts shall, on or after said day, desire to sue out a writ of error therein, such writ shall be directed to the said circuit court, and be returned by the clerk thereof. (Laws 1865-6, p. 72, sec. 3; R. S. 1899, p. 2534, sec. 4.)

Sec. 64. Judgments of said courts enforced in circuit court—liens and executions.—All judgments, orders and decrees of the said first named three courts remaining unsatisfied, unperformed or unexecuted, shall be enforced by the said circuit court, in the same manner as if the same had been rendered or made therein. The lien of all such judgments and decrees shall continue as if the laws establishing said courts were still in force, and may be revived by the said circuit court, in the manner provided by law for reviving the lien of its own judgments and decrees; and the clerk of said circuit court may, whenever required, issue execution on any such judgment or decree in any case authorized by law. (Laws 1865-6, p. 72, sec. 4; R. S. 1899, p. 2534, sec. 5.)

Sec. 65. Return of certain process and proceedings thereon.—All writs, rules, process and orders issued or made by any of said first named three courts, and returnable to any term of either of said courts, which would be held after the day aforesaid if said courts continued in existence, and which shall not have been returned before that day, shall be valid, and be returned to said circuit court at such times as they would respectfully have been returnable in said courts; and the said circuit court may enforce the return thereof. And defendants, in orders against non-resident, absent or unknown defendant, and in writs of summons or attachments, shall plead to the action within the first six days of the first return term of said circuit court, which shall be held on or after the day said orders or writs shall be respectively returnable, and the said court shall have the same power to conform or set aside sales made under orders of or under executions issued by either of the first named three courts mentioned in the first section of said act, as the said courts respectively possessed prior to the first day of January, A. D. eighteen hundred and sixty-six, and also all other powers possessed by said courts respectively prior to that date in relation to the said writs, rules, process and order. (Laws 1865-6, p. 76, sec. 2; amended Laws 1865-6, p. 72, sec. 5; R. S. 1899, p. 2534, sec. 6.)

Sec. 66. Records of said courts transferred to circuit court.—On the day aforesaid, the several clerks of said first named three courts shall deliver all the books, papers, records, furniture and other effects belonging to their respective offices to the clerk of said circuit court, who shall thereafter have charge thereof, and be responsible therefor, and perform such duties in relation thereto as he is required by law to perform in regard to similar things appertaining to his own office; and he shall, when required, make and certify copies, transcripts and exemplifications of any such books, papers and records. And the said circuit court shall have the same power and control over the books, papers and records so transferred, including the power to alter and amend the same as in cases allowed by law, as it has or may have over its own books, papers and records. (Laws 1865-6, p. 72, sec. 6; R. S. 1899, p. 2534, sec. 7.)

Sec. 67. Change of venue.—After the day aforesaid, no change of venue shall be allowed by the said circuit court for the cause that any one judge thereof is interested or prejudiced, or related to, or has been counsel for, or is under the undue influence of either party; but if any such cause exist as to any two of the judges thereof, a change of venue may be allowed to some other circuit court, or to the St. Louis criminal court, which court shall have jurisdiction to try and determine any case sent to it by such change of venue. Every application for a change of venue shall be made to said circuit court at the general term. (Laws 1865-6, p. 72, sec. 7; R. S. 1899, p. 2535, sec. 8.)

Sec. 68. **Return terms.**—After the day aforesaid, there shall be annually held five return terms of said circuit court, on the first Monday of each of the months of February, April, June, October and December. (Laws 1865-6, p. 72, sec. 8; R. S. 1899, p. 2535, sec. 9.)

Sec. 69. **General term, how organized.**—The said circuit court, after the day aforesaid, shall hold general terms and special terms, as the business thereof may require. A general term is when the court sits as a court in banc. At such term one of the judges shall act as presiding judge. At the first organization of the court under the constitution, and thenceforward until the succeeding April term thereof, the oldest judge in age shall preside, the next oldest judge shall preside during the said April term, and the youngest during the succeeding June term, and thereafter they shall preside alternately in the same order of rotation, each during the period from the commencement of one return term to that of another; but the court may at any time change the rule of presiding as its convenience may require. (Laws 1865-6, p. 72, sec. 9; R. S. 1899, p. 2535, sec. 10.)

Sec. 70. **General term—power to make rules extended.**—And in addition to the ordinary power of making rules conferred by the general law, the court may make all rules which its peculiar organization may, in its judgment, require, different from the ordinary course of practice, and necessary to facilitate the transaction of business therein. But all rules for the government of the court at special term shall be the same before each of the judges at such term. (Laws 1865-6, p. 73, part of section 14; other part repealed by constitution 1875; R. S. 1899, p. 2535, sec. 11—*m*.)

Sec. 71. **General term—business to be classified and distributed.**—The said court may classify, arrange and distribute the business thereof among the several judges, as the majority of them may deem expedient, and each judge shall attend to the business of the court in conformity with the arrangement thereof made by the majority, and, when not occupied with the business assigned to him, shall, as far as practicable, aid the other judges, to which end cases may be sent from one judge to another at special term, as the individual judges may agree and direct. (Laws 1865-6, p. 73, sec. 15; R. S. 1899, p. 2535, sec. 12—*n*.)

Sec. 72. **Certain dockets to be kept.**—The said circuit court after the first day of January, 1866, shall require the clerk thereof to keep four [thirteen] record books of its proceedings, one for the general term and one for each of the judges at special term, and shall require the record of each day's proceedings to be fully written up at such time as said court shall, by its rules, direct. (Laws 1865-6, p. 74, sec. 18; R. S. 1899, p. 2535, sec. 13.)

Sec. 73. **Special terms defined.**—A special term is where only one judge presides, and is for the trial of causes, *and the transaction of all other business not specified in the next preceding section*, and each judge at special term, with that exception, shall have and exercise all the powers and functions which he might have and exercise if he were the sole judge of the court. (Laws 1865-6, p. 73, sec. 11; R. S. 1899, p. 2536, sec. 14—*o*.)

Sec. 74. **Power of special term over its judgments.**—The said court shall have the same power, at special term, to vacate or modify its own judgments, decrees or orders rendered or made at such term, as if the said court were constituted with a single judge. (Laws 1865-6, p. 73, sec. 13; R. S. 1899, p. 2536, sec. 15.)

Sec. 75. **Powers of judges in vacation.**—Each judge of the said circuit court, in vacation, shall have and exercise the same powers that he might have and exercise if he were the sole judge of said court. (Laws 1865-6, p. 76, sec. 1; R. S. 1899, p. 2536, sec. 16—*p*.)

Sec. 76. **Judge's fee—costs of clerk regulated.**—From and after the first day of January, 1866, the plaintiff in every action instituted in said circuit court and appellant in every appeal case brought into said court, shall, at the time of instituting his action or filing the transcript in the case appealed, pay to the clerk of said court the sum of one dollar, to be known as the judge's fee, and no writ shall be issued in any such action, or transcript filed in any such appeal case, unless such fee be so paid. On the first Monday of every month the clerk of said court shall pay into the treasury of the county of St. Louis, for the use of said county, all judge's fees received by him during the preceding month in pursuance of this section, and from and after the said first day of January, 1866, the clerk of said

(*m*) See *Tilford vs. Ramsey*, 43 Mo. 410. The power to make rules conferred by Art. 6, Sec. 27 of the Constitution, was only intended to confer authority at general term to make such rules as would secure uniformity in the several divisions of the St. Louis Circuit Court: *State ex rel. vs. Withrow*, 133 Mo. 500.

A rule of the circuit court which is in conflict with a right given by statute is void: *State ex rel. vs. Withrow*, 135 Mo. 376.

(*n*) Relation and powers at general or special term: *Haehl vs. Wabash Ry.*, 119 Mo. 325; *Voulaire vs. Voulaire*, 45 Mo. 602; *Stripling vs. Maguire*, 108 Mo. App. 594, 600; *Tilford vs. Ramsey*, 43 Mo. 410; *State ex rel. vs. Eggers*, 152 Mo. 1. c. 487.

(*o*) See cases *supra*.

(*p*) *State ex rel. vs. Eggers*, 152 Mo. 485, 487.

court shall not demand or receive at the institution of any action, any fee for or on account of issuing the summons, attachment or other original writ by which such action may be instituted, or of making any copy to go out with such writ, but the fees therefor shall be taxed and collected as other costs. (Laws 1865-6, p. 74, sec 19; R. S. 1899, p. 2536, sec. 17.)

Sec. 77. Jurors, how furnished.—After the said last named day, the jury commissioner of St. Louis county shall, in the manner prescribed by law, furnish to said circuit court, from his jury list, the names of a sufficient number of jurors to serve in said court, before the several judges thereof at special term. (Laws 1865-6, p. 75, sec. 23; R. S. 1899, p. 2536, sec. 18.)

Sec. 78. Mechanics' liens, when filed.—On and after the said last named day all mechanics', material men's, builders', laborers' and artisans' liens in the county [city] of St. Louis shall be filed in the office of the clerk of said circuit court, who shall perform all duties in relation thereto which were theretofore performed by or incumbent upon the clerk of the St. Louis land court. (Laws 1865-6, p. 75, sec. 24; R. S. 1899, p. 2536, sec. 19.)

Sec. 79. Certain abstract of judgments to be continued.—On and after said day, the clerk of said circuit court shall keep in his office the abstract of judgments theretofore kept by the clerk of the St. Louis land court, in pursuance of the "act to establish a land court in St. Louis county, and for other purposes," approved December 12, 1855, and shall enter therein all judgments rendered by said circuit court, and shall perform all other duties in relation to said abstract which shall have theretofore been performed by or incumbent upon the clerk of said land court. (Laws 1865-6, p. 75, sec. 25; R. S. 1899, p. 2536, sec. 20.)

Sec. 80. Cases triable, when.—Suits instituted in said circuit court shall be triable at the return term thereof in all cases in which the defendants have been summoned personally, or by copies left at their usual place of abode with a member of their families over the age of fifteen years, at least fifteen days before the first day of such term, unless continued for good cause shown, as required by the law or rules of court. (Laws 1868, p. 41, amending laws 1865-6, p. 76, sec. 3. R. S. 1899 p. 2536, sec. 20.)

Sec. 81. St. Louis criminal court to consist of two divisions.—From and after the passage of this act, the St. Louis Criminal court shall consist of two divisions of which each shall be presided over by a separate judge, and shall have and exercise all the powers and jurisdiction now had and exercised by, and shall perform all the duties now belonging to said court as at present constituted. One of said divisions shall be known and styled as division number one, and the other as division number two, of said court. The judge of said court who shall be in office at the time of the passage of this act, and his successors, shall preside over and perform all the duties, and exercise all the powers, of the office of judge in division number one of said court, and the judge of said court to be appointed by the governor, as hereinbelow provided, and his successors, shall preside over, perform all the duties and exercise all the powers of said office of judge in division number two thereof. (Laws 1895, p. 131; R. S. 1899, p. 2537, sec. 21—q.)

Sec. 82. Governor to appoint additional judge—qualifications—salary.—As soon as possible after the passage of this act, the governor shall appoint and commission, for a term to end on the day before the first Monday of January, 1897, and additional judge of the St. Louis criminal court. The judge so appointed shall be a resident of said city, learned in the law, and have all the qualifications required by the constitution for a circuit judge. His salary shall be the same amount per annum as that now paid the present judge of said court, and shall be paid in the same manner and out of the same moneys as that of said present judge is now paid. (Ib., p 131, sec. 2—q.)

Sec. 83. Terms of court—officers and their duties.—The terms of said criminal court shall, until changed by law, continue to be the same as they now are, and each division thereof shall sit for the trial of causes and other business at each of the said terms. The clerk of said court as now established and his successors shall, after the passage hereof, perform the duties of his office for both divisions thereof, and be the clerk of both. The circuit attorney and assistant circuit attorney of their [the] city of St. Louis and the [their] respective successors shall, after the passage hereof, perform all the duties of their respective offices in and for both divisions of said court which are now, under the existing law, performed by them in and for the said court as now established. (Ib., p. 131, sec. 3. R. S. 1899, p. 2537, sec. 24.)

Sec. 84. Assignment of causes—how made.—[As soon as may be after the appointment of the additional judge of said criminal court above provided for, all causes, motions and other proceedings and matters which, at said time, may be pending undisposed of in said court, shall be allotted and assigned for disposition

(q) These sections are superseded by later enactments, the present law being acts 1905, p. 127-128, which see supra.

to said several divisions thereof by the said judges in such manner as they may agree to, or, in case of their disagreement, in such manner as they and the then oldest in commission of the judges of the circuit court of the city of St. Louis, or a majority of them, and said circuit judge, may direct—such assignment to be made as to give to each division as nearly an equal proportion of such undetermined business as possible. All cases, proceedings and other business arising and coming within the jurisdiction of said court, after the appointment of said additional judge, shall, upon its so arising, be assigned to said two divisions respectively for determination and disposition, in such manner as said judges, or a majority of them and said circuit judge, may direct. Each division of said court shall have full power to carry out and enforce all judgments, decrees or orders which have been rendered or made before the appointment and qualification of said additional judge, the same as said court might have done if this act had not been passed. A grand jury may be summoned to attend upon said court sitting in division number one, at each term thereof. It shall be charged with regard to its duties by the judge who shall be presiding in said division number one and shall return all indictments found and deliver all reports made by it into the said division. In case of the absence from said city, sickness or other disability of either of said judges, the other of them may sit and dispose of the business of the division of the one so absent, sick or otherwise disabled from attending thereto.] (Ib., p. 131, sec. 4. R. S. 1899, p. 2537, sec. 25—r.)

Sec. 85. Changes of venue to other divisions in cases of prejudice or interest.—Whenever, after the appointment and qualification of said additional judge, any application for change of venue shall be made in any cause pending in either of the said divisions of said criminal court, on account of the prejudice, or interest, or other legal ground of objection to the judge of said division, then said cause shall be transferred to the other division thereof for trial or other disposition. (Ib., 132, sec. 5. R. S. 1899, p. 2538, sec. 26.)

Sec. 86. St. Louis criminal court abolished—jurisdiction vested in circuit court.—On the first Monday of January, 1897, the St. Louis criminal court, and the offices of the judges and clerk thereof, shall be abolished, and all jurisdiction and powers then vested in said court or the judges thereof shall be transferred to, vested in and thereafter exercised by the circuit court of the city of St. Louis and the judges thereof, as said court will on that day be constituted under the constitution and the laws then in force, and thereafter said circuit court and judges, except in cases of which the St. Louis court of criminal correction has jurisdiction, shall have the same jurisdiction in criminal cases and matters arising in said city that under the constitution and laws is or may be vested in other circuit courts of the state. (Ib., p. 132, sec. 6. R. S. 1899, p. 2538, sec. 27—s.)

Sec. 87. Circuit court to finish up remaining business.—On that day all unfinished business remaining in said criminal court shall be transferred to said circuit court, by which the same shall be proceeded with, determined and closed up in the same manner as might have been done by said criminal court if it had continued in existence. In all cases so transferred, said circuit court shall take judicial notice of all entries of record made therein before the transfer thereof. (Ib., p. 132, sec. 7. R. S. 1899, p. 2538, sec. 28.)

Sec. 88. In cases of appeal or writ of error judgment to be remanded to circuit court.—All cases which prior to said day may have been taken by appeal or writ of error from said criminal court to the supreme court or the St. Louis court of appeals, shall, upon any judgment or decision of the supreme court or court of appeals thereafter made remanding the same, be remanded to said circuit court, and be there proceeded with as if the same had been taken from that court; and if any party to any action or proceeding in said criminal court shall, on or after said day, desire to sue out a writ of error therein, such writ shall be directed to the said circuit court, and be returned by the clerk for criminal causes thereof hereinafter mentioned. (Ib., p. 132, sec. 8. R. S. 1899, p. 2538, sec. 29.)

Sec. 89. All judgments and decrees of criminal court unsatisfied shall be enforced by circuit court—liens to continue in circuit court.—All judgments and decrees of said criminal court remaining unsatisfied, unperformed or unexecuted shall be enforced by the said circuit court, in the same manner as if the same had been rendered or made therein. The lien of all such judgments and decrees shall continue as if the laws establishing said court were still in force, and may be revived by the said circuit court, in the manner provided by law for reviving the lien of its own judgments and decrees; and the clerk for criminal causes of said circuit court may, whenever required, issue execution on any such judgments or decree in any case authorized by law. (Ib., p. 133, sec. 9. R. S. 1899, p. 2538, sec. 30.)

(r) Superseded by Laws 1905, p. 127-128, Secs. 4 and 35, set forth above [Sec. 59].

(s) The circuit court, under this section, has jurisdiction over misdemeanors punishable by imprisonment in the penitentiary, the court of criminal correction over those punishable by imprisonment in jail, or fine, or both: *State ex rel. vs. Foster*, 187 Mo. 590, 600.

Sec. 90. Writs, rules and process, how returnable.—All writs, rules, process and orders issued or made by said criminal court, and returnable to any term thereof which would be held after the day aforesaid if said court continued in existence, and which shall not have been returned before that day, shall be valid, and be returned to said circuit court at such time as they would respectively have been returnable in said criminal court, and the said circuit court may enforce the return thereof. (Ib., p. 133, sec. 10. R. S. 1899, p. 2539, sec. 31.)

Sec. 91. Clerk of St. Louis criminal court shall deliver books, records, furniture, etc., to clerk for criminal causes in circuit court.—On said first Monday of January, 1897, the clerk of said St. Louis criminal court shall deliver all the books, papers, records, furniture and other effects belonging to his office to the clerk for criminal causes of said circuit court, who shall thereafter have charge thereof and be responsible therefor, and perform such duties in relation thereto as he is required by law to perform in regard to similar things appertaining to his own office; and he shall, when required, make and certify copies, transcripts and exemplifications of any such books, papers and records; and the said circuit court shall have the same power and control over the books, papers and records so transferred to it, including the power to alter and amend the same in the cases allowed by law, as it has or may have over its own books, papers and records. (Ib., p. 133, sec. 11. R. S. 1899, p. 2539, sec. 32.)

Sec. 92. Salary of judges.—From and after the first Monday of January, 1897, each of the judges of said circuit court of the said city shall receive yearly, in addition to the amount allowed by law to the several judges of the circuit courts, to be paid out of the state treasury, the further sum of three thousand five hundred dollars, to be paid out of the treasury of said city in monthly installments, which installments the municipal assembly of said city shall cause to be duly paid to said judges. (Ib., p. 133, sec. 12. R. S. 1899, p. 2539, sec. 34.)

Sec. 93. Transfer and disposal of criminal causes—criminal causes to have precedence—grand jury.—On the first Monday of January, 1897, or as soon thereafter as may be, the judges of said circuit court of the city of St. Louis, sitting in general term, shall assign two or more of their number, who shall sit separately, for the trial of criminal causes then or thereafter pending in said court, and for the disposition of such other business arising under the criminal jurisdiction of the court as may come before it, and to whom shall thereupon be transferred for trial and disposition, in such proportions between themselves as said [court] in general term shall determine, all of the unfinished cases, actions and proceedings which shall have been, on the first Monday of January, 1897, transferred to said court from the said criminal court. The judges so assigned for the trial of said criminal cases, and the disposition of other business arising under the criminal jurisdiction, shall try and dispose of the cases so transferred to them, and conduct the business arising under said criminal jurisdiction during such time or times as the court, in general term, may direct, and said general term shall, from time to time, replace the judges so assigned to try said criminal cases and dispatch said criminal business, with others of its members selected by it to that end, and, as far as practicable, alternately and in rotation, so that from time to time each of their number shall in turn serve in the transaction of the criminal business of the court. And it shall be the duty of the judges sitting in general term to at all times so arrange the dockets of said court as [so] that the trial and disposition of criminal cases and proceedings shall have precedence over those of civil actions pending therein, and to that end they shall from time to time assign as many judges of said court for the trial of criminal cases as may be necessary. After the first Monday of January, 1897, a grand jury shall be summoned each term to attend upon such division assigned to criminal business as said circuit court in general term shall direct. It shall be charged with regard to its duties by the judge of said court sitting in said division, and it shall return all indictments by it found, and deliver all reports by it made into said division. (Ib., p. 133, sec. 13; R. S. 1899, p. 2539, sec. 35.)

Sec. 94. Office of clerk for criminal causes created—fees and compensation—amount of bond—term of office.—On and after the first Monday of January, 1897, there shall be an additional clerk of the said circuit court, to be known as the circuit clerk for criminal causes of said circuit court, who shall have charge of the books, papers and records of said court pertaining to the criminal cases and business pending therein from time to time, and shall perform all the duties for the divisions of the said court assigned for the trial and disposition of criminal cases and business, that under the law now existing are required to be performed for the said St. Louis criminal court by the clerk thereof. From and after said day in January, 1897, and until the first Monday of January, 1899, whoever may be the clerk of the said criminal court on the day before the first Monday of January, 1897, shall perform the duties hereby cast upon said circuit clerk for criminal causes of said circuit court, and hold and exercise the office of such clerk. He shall for his services receive the same fees and compensation as by the law in force on said first Monday

of January, 1897, is allowed to said clerk of said criminal court for like services, but not retaining in any year a greater amount of fees than under the law now in force is allowed to be retained by him for his services as clerk of said criminal court. He shall, on or before said first Monday of January, 1897, enter into a bond, payable to the state of Missouri, with good and sufficient securities, resident in said city, to the satisfaction of a majority of the judges, of said circuit court, in a sum not less than five thousand dollars, and as much more as a majority of said judges may require, conditioned that he will faithfully perform the duties of the office of circuit clerk for criminal causes of the circuit court of the city of St. Louis, and pay over all moneys which may come to his hand by virtue of his office, and that he, his executors or administrators, will deliver to his successor, safe and undamaged, all books, records, papers, seals, apparatus and furniture of his office of circuit clerk for criminal causes as aforesaid. At the general election in November, 1898, and every four years thereafter, there shall be elected by the qualified voters of said city a circuit clerk for criminal causes of the circuit court of the city of St. Louis, who, when so elected, shall be commissioned by the governor, and shall enter upon the discharge of his duties upon the first Monday of January ensuing his election. He shall hold his office for the term of four years, and until his successors shall be duly elected and qualified, unless sooner removed from office. He shall receive for his services the same fees as are or may be allowed to other circuit clerks in the state for like services, but not retaining in any year for his salary and services a greater amount of the fees of his office than under the law as now in force is allowed to be retained by the clerk of said criminal court. He shall use in the attestation of all writs and papers issued or made by him which are required to be under seal, the seal of said circuit court. (Ib., p. 134, sec. 14; R. S. 1899, p. 2540, sec. 36.)

Sec. 95. Circuit and assistant circuit attorney shall manage and conduct all criminal causes—compensation.—On and after the first Monday of January, 1897, the circuit attorney and the assistant circuit attorney of the city of St. Louis shall manage and conduct all criminal cases, business and proceedings of which said circuit court shall have jurisdiction, in like manner as under the laws now in force they are required to manage and conduct the like cases and business of which the said St. Louis criminal court now has jurisdiction. Their compensation respectively shall, after said day, be the same as it now is, and be paid in the same manner as is now provided by law. (Ib., p. 135, sec. 15; R. S. 1899, p. 2541, sec. 37.)

Sec. 96. Changes of venue, how effected.—After said first Monday of January, 1897, changes of venue shall be allowed from said circuit court in any criminal case pending therein, for any cause for which such changes are or may be allowed from other courts of this state having criminal jurisdiction; but whenever such changes is [are] asked on the ground of prejudice, interest, or other legal objection to any of the judges thereof who may have been assigned for the trial of such case, no change shall be awarded, but the case shall be transferred to another division of said court, to which the trial and disposition of criminal cases may have been allotted by the court. (Ib., p. 135, sec. 16; R. S. 1899, p. 2541, sec. 38.)

Sec. 97. Circuit court in general term may make rules to carry act into effect.—The judges of said circuit court sitting in general term are hereby empowered to adopt and promulgate from time to time such rules and regulations as may by them be found to be necessary or expedient to carry this act into effect, and to secure in said city as well an efficient administration of the laws of the state relating to crimes, as a prompt and thorough enforcement of the rights of persons and property under the laws relating to civil actions and procedure. (Ib., p. 135, sec. 17; R. S. 1899, p. 2541, sec. 39.)

Sec. 98. Inconsistent acts repealed.—All acts and parts of acts inconsistent with this act are hereby repealed. (Ib., p. 135, sec. 18.)

Sec. 99. Emergency clause.—The existing delays in the administration of justice in both civil and criminal cases in the city of St. Louis constitute an emergency within the meaning of the constitution; and it is therefore enacted that this act shall take effect from and after its passage. (Ib., p. 135, sec. 19.)

Sec. 100. Amount to be retained by circuit clerks and clerks of criminal courts—appointment of deputies—compensation, etc.—In all counties and cities not within the limits of a county having a population of three hundred thousand inhabitants or more, or such as may hereafter have three hundred thousand inhabitants or more, the clerk of the circuit court of such county or city may retain, out of the fees received by him as such clerk, an amount not exceeding the sum of five thousand dollars per annum for his services as such clerk. In all counties and cities not within the limits of a county, having a population of three hundred thousand inhabitants or more, or such as may hereafter have three hundred thousand inhabitants or

more, the clerks of courts having criminal jurisdiction in such city or county shall receive an amount not exceeding five thousand dollars per annum for his salary and service as such clerk, to be retained out of the fees of his office. In all such cities or counties the clerk of such court shall have the right to select and appoint as many deputies, subject to the approval of the court, as may be necessary to perform the duties of his office, and shall fix the compensation of such deputies, not exceeding the sum of twelve thousand dollars in the aggregate, which deputy hire shall be paid out of the fees of his office. At the end of each year such clerk shall make out and return to the treasurers of said counties and cities not within the limits of a county, a full and correct statement of all such fees collected by them during the year, and in the event that the aggregate sum so collected shall not be equal to the amount of their respective salaries and that of their deputies as herein provided, the deficit shall be paid to such clerk out of the treasury of such counties and cities. (Laws 1905, p. 154; amending R. S. 1899, sec. 3271.)

Sec. 101. **Emergency clause.**—The increase in the number of criminal divisions of circuit courts in this state and the necessity for the increase in clerical force and labor in said courts creates an emergency within the meaning of the constitution, and this act shall take effect and be in force upon its passage. (Ib., sec. 2.)

ARTICLE III.

OF PROBATE COURTS.*

ARTICLE IV.

THE ST. LOUIS COURT OF CRIMINAL CORRECTION.**

Sec. 102. **Court established.**—There is hereby established in the county [city] of St. Louis a court of record, which shall be known and called "the St. Louis Court of Criminal Correction." (Laws 1865-6, p. 78, sec. 1; R. S. 1899, p. 2541.)

Sec. 103. **A court of record.**—Said court of criminal correction shall be a court of record, and shall possess all the powers, and perform the duties, and be subjected to the restrictions of a court of record, according to the laws of this state. (Laws 1869, p. 194, sec. 1; R. S. 1899, p. 2541—*t*.)

Sec. 104. **Election, qualification and terms of judge and officers.**—At the general election, every four years, there shall be elected by the qualified voters of St. Louis county [city] a judge and clerk of said court, a prosecuting attorney, to be styled the prosecuting attorney for the [St. Louis] court of criminal correction of St. Louis county, and an assistant prosecuting attorney. Said judge shall possess the qualifications of a judge of the circuit court, and shall hold his office for the term of four years from the time of his election, and until his successor shall be duly elected and qualified, unless sooner removed from office. Said clerk shall possess the qualifications of a clerk of the circuit court, and be subject to all the requirements and obligations exacted of and imposed by law upon clerks of courts of record, and shall hold his office for the term of four years from the time of his election, and until his successor shall be duly elected and qualified, unless sooner removed from office; and said clerk shall have power, by and with the consent of the judge of said court, to appoint one or more deputies, which said appointment shall be approved by said court; thereupon said court shall fix the salary of said deputy or deputies, and the said salary or salaries shall be paid monthly by the county [city] of St. Louis. Said prosecuting attorney and assistant prosecuting attorney shall possess the same qualifications as required by law for circuit attorneys; they shall hold their office for the term of four years, and until their successors shall be duly elected and qualified, unless sooner removed from office. (Laws 1869, p. 194, sec. 2; R. S. 1899, p. 2542.)

Sec. 105. **Appointment, powers and pay of provisional judge.**—In the event of the sickness or absence of the judge of said court, the circuit court of St. Louis county [city], or any judge thereof, in vacation, may appoint, for the time being, a provisional judge of said court, who shall possess the qualifications of a judge of the circuit court; and in the absence, sickness or other incapacity to act of the

*The acts relating to Probate Courts, specially applicable to the City of St. Louis, passed in 1897 (Acts 1897, p. 82; R. S. 1899, Secs. 6244, 6245 and 6246), were held void in *Henderson vs. Koenig*, 168 Mo. 356 (See S. C. 192 Mo. 690). Thereafter at the session of 1905, a new act was passed, general in its terms, but inconsistent with the prior special act and operating to supersede the same, even if valid. The St. Louis Probate Court is now governed by that act: Laws 1905, p. 155-157.

**Act creating the Court of Criminal Correction is not unconstitutional: *State vs. Ebert*, 40 Mo. 186.

(d) See note *infra*, Sec. 114.

judge of said court, said provisional judge shall have all the power and perform all the duties conferred and imposed by law upon said judge of said court; and if the absence, sickness, or incapacity to act of said judge shall continue, at any time, for a period exceeding one day, it shall be the duty of the clerk of said court to certify the same to the auditor of St. Louis county [city], who shall deduct, in his next monthly payment, from the salary of said judge the number of days absent, and the amount thereof in proportion to his salary; and during the time said provisional judge shall actually perform the services and duties of said judge, he shall receive the same salary as said judge, to be paid out of the treasury of said county [city] out of the salary of said judge. (Laws 1869, p. 195, sec. 4; R. S. 1899, p. 2542—*u.*)

Sec. 106. Removal from office of officers.—The officers named in this act may be removed from office for the same cause and in the same manner as judges of the circuit court, clerks of courts of record and circuit attorneys may by law be removed, and all vacancies in either of said offices shall be filled, and all contested and tie elections shall be determined as in cases of circuit judges, clerks of courts of record and circuit attorneys. (Laws 1869, p. 195, sec. 5; R. S. 1899, p. 2542.)

Sec. 107. Certificate of election and commission of judge.—Immediately after any election had for judge of said court, the clerk of the county court of St. Louis county [register of the city of St. Louis] shall transmit to the governor of the state a certificate of such election, and the governor shall thereupon issue a commission to the person so certified to be elected as judge of the St. Louis court of criminal correction. (Laws 1869, p. 195, sec. 6; R. S. 1899, p. 2542.)

Sec. 108. Powers of judge.—The judge of said court shall be a conservator of the peace within the county [city] of St. Louis; he shall have power to issue writs of *habeas corpus* and determine the same, administer oaths, take and acknowledge recognizances in all cases within the jurisdiction of said court, and in cases of felony he shall have and may exercise all the powers of an examining magistrate; but all complaints or information and affidavits setting forth the offense in preliminary examinations of felony in said court, as well as in cases of misdemeanor, shall be prepared or approved by said prosecuting or said assistant prosecuting attorney, or the person for the time being acting as such, and shall be sworn to before the clerk of said court, and all warrants and processes in such cases shall be issued under the hand of the clerk of said court, with the official seal of said court thereto affixed, and such examinations shall be conducted during the open session of said court. (Laws 1869, p. 195, sec. 7; R. S. 1899, p. 2542—*v.*)

Sec. 109. Salary of judge and officers.—The judge of said court shall have an annual salary of four thousand dollars; the prosecuting attorney of said court shall have an annual salary of three thousand five hundred dollars; the assistant prosecuting attorney of said court shall have an annual salary of two thousand five hundred dollars, and the clerk of said court shall have an annual salary of two thousand five hundred dollars—said salaries to be paid monthly by the county [city] of St. Louis. (Laws 1873, p. 198, sec. 8; R. S. 1899, p. 2543.)

Sec. 110. Seal.—The clerk shall keep a seal of said court, with such emblems and devices as shall be prescribed by the judge thereof. (Laws 1869, p. 195, sec. 9; R. S. 1899, p. 2543.)

Sec. 111. Fees and costs.—In all cases brought before said court in which final judgment shall be rendered, the clerk shall issue execution or fee-bill, as the case may be, and shall therein tax all such fees as are at the time allowed by law, except witness fees, which shall be charged only when claimed in open court, at the rate of fifty cents per day for each day's attendance; such examinations or fee-bills shall be delivered to the marshal [sheriff] of St. Louis county [city], and it shall be the duty of said marshal [sheriff] to forthwith execute and return the same to said court within thirty days from the issue thereof, showing how he executed the same; but such marshal [sheriff] shall receive no fees for any *nulla bona* or *non est inventus* upon any execution, subpoena, attachment, or other process issued out of said court. (Laws 1869, p. 196, sec. 10; R. S. 1899, p. 2543.)

Sec. 112. Statements of fines, penalties and forfeitures.—The clerk of said court shall, as often as required by said court, make and certify to the auditor of St. Louis county [city] a detailed statement of all the fines, penalties and forfeitures imposed by said court, and collected by the marshal [sheriff] of St.

(*u*) Special judge of this court, see *State ex rel. vs. Wilder*, 198 Mo. 166, 173.

(*v*) When this section is taken in connection with other sections, it does not follow that a continuance granted by the Court of Criminal Correction without the knowledge of a surety, operates to release the latter: *State vs. Epstein*, 186 Mo. 144, 147. The judge has no power to release on *habeas corpus*, one indicted for murder, where either of the criminal courts are in session: *State ex rel. vs. Murphy*, 132 Mo. 382. This court performs the dual function of an examining magistrate and of a trial court, depending on the nature of the cause: *State vs. Hoeffner*, 44 Mo. App. 543.

Louis county [city], and said clerk shall at the same time make a like statement of fines, penalties and forfeitures, and all costs by him collected, and shall pay the same into the county [city] treasury at the time of making said required statement. (Laws 1869, p. 196, sec. 11; R. S. 1899, p. 2543—*w.*)

Sec. 113. Court-room and offices—stationery—marshal.—The county court [municipal assembly] of St. Louis county [city] shall provide rooms for said court, and the clerk thereof, in the court-house of said county [city], or in such other building as said county court [assembly] may contract or provide for the holding of courts, and also a suitable office for said assistant prosecuting attorney in said court-house, or near thereto, and the said county court [assembly] shall furnish said rooms and said assistant prosecuting attorney's office, with fuel and light, and other things, as may be necessary for the court. The marshal [sheriff] of said county [city] shall attend said court of criminal correction, and all stationery actually required for the use of said court, or the officers thereof, shall be furnished by the county [city] of St. Louis, upon the application of the clerk of said court. (Laws 1869, p. 196, sec. 12; R. S. 1899, p. 2543.)

Sec. 114. Jurisdiction.—Said court shall have exclusive original jurisdiction of all misdemeanors under the laws of the state committed in St. Louis county [city], the punishment whereof is by fine, or imprisonment in the county jail, or both, or by any forfeiture, except cases of assault and battery, and affray or riotous disturbance of the peace, which [are] cognizable by justice of the peace, and in relation to which the jurisdiction of said court shall be concurrent with them; and the said court shall have concurrent jurisdiction with the police court of the city of St. Louis of all offenses which may be declared to be misdemeanors under any law of the state, and which may also be a violation of any ordinance of the city of St. Louis: *Provided*, that any action pending or which has been decided in either of said courts may be pleaded in bar or in abatement, as the case may be, to a prosecution in the other of said courts for the same offense, with the like effect as if said prosecution were pending in the same court, or had been decided in the same court: *Provided*, that this act shall not be so construed as to give to said police court jurisdiction of any prosecution for a misdemeanor instituted in the name of the state of Missouri. It shall be the duty of the chief of police of said city to report within twenty-four hours after arrest by the police, to the assistant prosecuting attorney of said court of criminal correction, the names of all persons charged with misdemeanors under the laws of this state, together with the prosecuting witnesses, and the names and residences of all other material witnesses in such case, which report shall be received by said assistant prosecuting attorney, and he shall thereupon proceed to institute such prosecution as required by law; any willful failure on the part of said chief of police, or other officer whose duty it shall be to act in the premises, to comply with the provisions of this section, shall be deemed a misdemeanor, whereof the party offending may be instituted [indicted] and punished by a fine of not less than ten nor more than one hundred dollars, any law of this state or any ordinance of the city of St. Louis to the contrary notwithstanding. (Laws 1869, p. 196, sec. 13; R. S. 1899, p. 2544—*x.*)

Sec. 115. Appellate jurisdiction.—In addition to the other powers conferred by this act on the court of criminal correction, said court shall have and exercise appellate jurisdiction in all cases of a criminal nature appealed from justices of the peace in the county [city] of St. Louis, and all such appeals shall be to said court of criminal correction, in the same manner and form as in such cases as heretofore appealed to the St. Louis criminal court. (Laws 1869, p. 197, sec. 14; R. S. 1899, p. 2543.)

(*w.*) The court has no authority to require the sheriff to pay into court money collected on fines and forfeitures which go into the school board funds; it can only order a settlement and have the amount found due transmitted to the school board: *In re Staed*, 116 Mo. 537.

(*x.*) The St. Louis Court of Criminal Correction is of statutory origin; and while for some purposes it is denominated a court of record, it is not one proceeding according to the course of the common law, is of limited and special jurisdiction and does not possess any jurisdiction not expressly conferred on it: *State vs. Anderson*, 191 Mo. 134; *Ex Parte O'Brien*, 127 Mo. 477; *State ex rel. vs. Murphy*, 132 Mo. 382, 384; *St. Louis vs. Saitz*, 160 Mo. 74, 76.

A sentence to jail instead of the work house is not for that reason void: *State vs. Bougher*, 7 Mo. App. 573 (memo.) As to imprisonment in the House of Correction, instead of work house, of minors under certain age, see *In re Larkowski*, 94 Mo. App. 623. As to place and length of imprisonment, see note to sec. 133 below.

The Court of Criminal Correction has jurisdiction over misdemeanors punishable by imprisonment in jail or fine or both, and the Circuit Court over such misdemeanors as are punishable by imprisonment in the penitentiary: *State ex rel. vs. Foster*, 187 Mo. 590, 600. The Court of Criminal Correction had exclusive original jurisdiction of all misdemeanors at the time of its establishment in 1866, in the then county of St. Louis, but now only in the City of St. Louis. 198 Mo. 166, 172. This court is a criminal court within the meaning of the statutes: *State ex rel. vs. Wilder*, 198 Mo. 166, 171 and cases cited.

Right to naturalize aliens: 39 Fed. 49.

Sec. 116. Sessions—continuances.—Said court of criminal correction shall be in session each and every day in the week, except Sunday, and state and national holidays, and the proceedings therein shall be conducted in a summary manner, and no continuance shall be granted to the defendant in any case for a period longer than one day, except upon the affidavit of the defendant: *Provided*, the court may and is hereby empowered to establish such rules and regulations in relation to continuances as shall be just and proper to prevent delay and procrastination. (Laws 1869, p. 197, sec. 15; R. S. 1899, p. 2543—*y*.)

Sec. 117. Practice and proceedings.—The proceedings of said court shall be governed by the laws regulating proceedings and practice in criminal cases, so far as the same may be applicable, and no written pleadings shall be required of the defendant in any case. (Laws 1869, p. 197, sec. 16; R. S. 1899, p. 2543—*z*.)

Sec. 118. Recognizances and forfeitures.—Said court shall have power to take recognizances in all cases within its jurisdiction, to declare forfeitures of the same, and award executions upon such forfeitures, in like manner and with the same legal effect as the St. Louis criminal court is authorized to do. (Laws 1869, p. 197, sec. 17; R. S. 1899, p. 2544—*a*.)

Sec. 119. Duties of the prosecuting attorney.—The prosecuting attorney of said court shall attend to and prosecute all suits brought therein, and it shall be his duty to appear for the state in all cases appealed from said court to the supreme court [St. Louis court of appeals] of this state; it shall be the duty of said assistant prosecuting attorney to attend, at his office, on each secular day of the week, for the purpose of preparing all complaints, affidavits, informations and pleas required by law to be lodged in said court. (Laws 1869, p. 197, sec. 18; R. S. 1899, p. 2545.)

Sec. 120. Prosecutions to be by information—proceedings.—No indictment shall hereafter be found for any misdemeanor under the laws of this state, committed in the county [city] of St. Louis, the punishment whereof is by fine or imprisonment in the county jail, or both, or by any forfeiture; but the same shall be presented to the court of criminal correction by information. An information in any such case may be lodged by the prosecuting attorney for said court, or by said assistant prosecuting attorney, or by any other person; if lodged by said prosecuting attorney, it need not be under oath; if lodged by any other person, he shall swear to the same to the effect that he believes it to be true; if made without oath, the process issued thereon shall be a summons requiring the party to appear and answer forthwith, or at a future day to be named therein; if there be a default of the appearance of any party so summoned, the court shall proceed to hear the evidence, and to render such judgment as may be authorized by law and required by the nature of the case; if the information be under oath, a warrant shall issue for the apprehension of the party charged with the offense. (Laws 1869, p. 197, sec. 19; R. S. 1899, p. 2545—*b*.)

(*y*) Since the court is required to be in session every day, it has no terms: *St. Louis vs. Saitz*, 160 Mo. 74. The above section confers on the court additional powers respecting continuances to those conferred on magistrates by sec. 2448 R. S. 1899; hence a continuance for more than ten days without consent of a surety on the defendant's bond, does not release the surety: *State vs. Epstein*, 186 Mo. 144.

(*z*) The provision of the statute providing for a change of venue to another justice in preliminary examinations for felonies, because of disqualification of the justice of the peace, applies to preliminary examinations in the court of criminal correction, so that after such proceeding the judge has no jurisdiction; but the sections providing for election of special judge by reason of the incompetency and disqualification of the judge of a criminal court, does not apply to the court of criminal correction in case of felony examinations, but do apply to cases of misdemeanors: *Ex Parte Bedard*, 106 Mo. 616; see also *State ex rel. vs. Wilder*, 198 Mo. 166, 171.

(*a*) It is held in *State vs. Hoeffner*, 44 Mo. App. 543, that the court of criminal correction exercises the dual function of an examining magistrate and of a trial court. In every case which it has jurisdiction to try, it may take the recognizance of the accused for his appearance and declare a forfeiture thereon, and award execution, in like manner as the criminal court; in felony cases, it can act as examining magistrate only, take such recognizance, and if the accused fails to appear enter default, but thereupon it must certify the recognizance with the record of default to the criminal court. See to same effect, *State vs. Hoeffner*, 63 Mo. App. 409.

(*b*) This section is upheld as constitutional in *State vs. Ebert*, 40 Mo. 186. The provision that information made by a private person will be sufficiently verified if he swear "that he believes it to be true," was repealed by act of April 12, 1877: *State vs. Bennett*, 102 Mo. 356, 370. As to sufficiency of affidavit in information, and who may make same, see *Id*; also *State vs. Speritus*, 191 Mo. 24, 38; *State vs. Luman*, 66 Mo. App. 472; *Ex Parte Thomas*, 10 Mo. App. 24; *State vs. Armstrong*, 106 Mo. 395; *State vs. Fitzporter*, 17 Mo. App. 271 (this case also holding that the person signing as "acting prosecuting attorney" is presumed to be such in fact); *State vs. Kaub*, 19 Mo. App. 149. The functions of Assistant Prosecuting Attorney of the St. Louis Court of Criminal Correction were not abolished by act of April 12, 1877, and the incorporation thereof into the Revised Statutes, and as the duty of preparing informations is specially committed to him, the affidavit forming the basis of the information is properly lodged with him: *State vs. Daly*, 49 Mo. App. 184. As to whether an offense is a misdemeanor or felony, determining whether same be tried in the Court of Criminal Correction or the Circuit Court, see (referring to the above section 19) *State ex rel. vs. Foster*, 187 Mo. 590, 601, 609.

Sec. 121. Statutes of jeofails.—The statutes of jeofails, as applicable to criminal proceedings and pleadings, shall apply to all informations lodged in said court, and the court shall have power to permit any amendments of information, process or proceedings in furtherance of the ends of justice at any time before the determination of the suit. (Laws 1869, p. 197, sec. 20; R. S. 1899, p. 2545.)

Sec. 122. Proceedings when felony appears—same in criminal court, as to misdemeanors.—If, in the course of any proceeding in said court, by information or otherwise, it shall appear that the defendant has been guilty of felony, the court shall dismiss as to the lesser offense, and proceed to examine the matter and commit or bail the defendant to answer an indictment in the St. Louis criminal court; and if, upon the trial of a party charged with felony in the St. Louis criminal court, it should appear that the defendant is guilty of misdemeanor only, the case shall not therefore be dismissed, but shall be proceeded on to judgment in said criminal court, to the same effect as if the defendant had been tried for misdemeanor in the court of criminal correction. (Laws 1869, p. 198, sec. 21; R. S. 1899, p. 2545.)

Sec. 123. Convictions for less offense.—Under an information for petit larceny the defendant may be convicted of embezzlement, if the amount be under ten dollars, or such sum as would not constitute grand larceny, and in like manner a defendant charged with embezzlement may be convicted of petit larceny. (Laws 1869, p. 198, sec. 22; R. S. 1899, p. 2545.)

Sec. 124. Jurors.—The jury commissioner of St. Louis county [city], when required, shall furnish said court with jurors, as in other courts. (Laws 1869, p. 198, sec. 23; R. S. 1899, p. 2545.)

Sec. 125. Insolvent law not applicable, when.—No person convicted in said court, or in the St. Louis criminal court, as hereinbefore provided, of a misdemeanor under the laws of this state, and sentenced to the payment of a fine and the costs therein accrued, shall be allowed to avail himself (or herself) of the provisions of any act for the relief of insolvent debtors. (Laws 1869, p. 198, sec. 24; R. S. 1899, p. 2545—c.)

Sec. 126. Lien of judgments and executions.—The judgments rendered by said court of criminal correction shall be and constitute a lien upon the real estate of a party convicted therein, and all executions issued shall be a lien upon the personal property of any defendant convicted in said court from the date of issue thereof. (Laws 1869, p. 198, sec. 25; R. S. 1899, p. 2546.)

Sec. 127. Appeals and writs of error.—An appeal shall be allowed the defendant from any final judgment of said court to the supreme court [St. Louis court of appeals], if applied for within ten days after the rendition of such judgment, but not otherwise. The manner of taking such appeals shall be the same, as near as may be, as is prescribed by law for [taking] appeals from circuit courts in criminal cases. Writs of error shall be allowed upon any final judgment of said court, and may be prosecuted and issued from the supreme court [St. Louis court of appeals], in like manner and with similar effect as writs of error to the St. Louis criminal [circuit] court. (Laws 1869, p. 198, sec. 26; R. S. 1899, p. 2546—d.)

Sec. 128. Power over officers collecting fines.—Said court shall have power and is hereby required to see that all officers in the county [city] of St. Louis, charged with the collection of fines, penalties and forfeitures, for misdemeanors under any law of this state, pay the same into the county [city] treasury as required by law, and for that purpose, said court shall have power to cite and compel every such officer, at least once in every three months, and oftener if need be, to make a written report, under oath, of all such fines, penalties and forfeitures collected by him; and if any such officer shall fail to make such report when cited, or to pay over the amount collected by him as required by law, then said court may compel him thereto, by attachment of his body. (Laws 1869, p. 198, sec. 27; R. S. 1899, p. 2546.)

(c) See *In re Lorkowski*, 94 Mo. App. 623, 627 et seq. discussing the bearing of this and other provisions.

(d) The court of criminal correction, being of limited jurisdiction, possesses only such powers as are conferred upon it by statute, which with respect to the time of writing and filing a bill of exceptions is at the time or during the term of the court at which they are taken or within such time thereafter as the court may by an order entered of record allow. If the bill is not filed at the time and as there are no terms of court, in the absence of an order of court entered of record extending the time for its filing, a bill of exceptions will be disregarded by the appellate court: *St. Louis vs. Saitz*, 160 Mo. 74, 76. All appeals, from any decision, must be taken within three days after trial, and bills of exception should be signed and filed before the appeal is taken. Where counsel consent that time be granted to file bills of exceptions and take appeals, the consent should be entered of record: *State ex rel. vs. Judge St. L. Ct. Crim. Cor.*, 41 Mo. 598. A writ of error may be prosecuted by the State to review a judgment of the St. L. Ct. Crim. Cor. quashing an information as based on an unconstitutional law: *State vs. Burgdoerfer*, 107 Mo. 1. A defendant may appeal to review a judgment based on violation of a city ordinance, being a civil action, but the city must proceed by writ of error: *St. Louis vs. Marchel*, 99 Mo. 475.

Sec. 129. **Lists of officers, how furnished.**—The clerk of the county court [register] of St. Louis county [city], shall, from time to time, as changes may occur, furnish to said court the names of all the officers contemplated by the next preceding section. (Laws 1869, p. 198, sec. 28; R. S. 1899, p. 2546.)

Sec. 130. **Supervision over property found on person of offenders.**—The said court shall exercise a careful supervision over all officers connected therewith in relation to money or other property found on the persons of offenders, and taken from them, and shall see that the same is properly preserved; that the rights of offenders or other parties in relation thereto are protected and enforced, and that all laws applicable to such cases are duly executed; and it shall have power to enforce all its orders in relation to such matters by attachment of the body. (Laws 1869, p. 198, sec. 29; R. S. 1899, p. 2546.)

Sec. 131. **Prosecutor liable for costs, when.**—In all cases of misdemeanor under any law of this state, when the information is lodged by a person other than the prosecuting attorney, or assistant prosecuting attorney, or any state or county officer in the discharge of his official duty, the person swearing to such information shall be liable for all costs accruing in the case, if the defendant be acquitted, and judgment shall be rendered and execution issued therefor against him. (Laws 1869, p. 199, sec. 30; R. S. 1899, p. 2546.)

Sec. 132. **Power of court to reduce punishment.**—Said court shall have power, in all cases of conviction, to reduce the extent and duration of the punishment assessed by a jury, if in its opinion the conviction is proper, but the punishment assessed is greater than under the circumstances of the case ought to be inflicted. (Laws 1869, p. 199, sec. 31; R. S. 1899, p. 2546.)

Sec. 133. **Sentence and place of imprisonment.**—Whenever the punishment of any misdemeanor is partly or wholly by imprisonment in the county jail, the party convicted in said court shall, instead of being sentenced to imprisonment in said jail, be sentenced to imprisonment in the work-house of the city of St. Louis, or such other place of imprisonment as the county [city] of St. Louis may provide for that purpose, and be there kept at hard labor during the period of imprisonment to which such party may be sentenced; but no sentence shall be for a longer period than six months, for any cause; nor shall any person be detained for a greater period by reason of his or her failure to pay any fine or costs that may be imposed by said court. (Laws 1869, p. 199, sec. 32; R. S. 1899, p. 2546—e.)

Sec. 134.—**Sentence includes hard labor—rules.**—Every person committed to the work-house, or other place of punishment provided by said county [city], by said court of criminal correction, shall be put to hard labor, at such work as his or her strength and health will permit, whether within or without such place of imprisonment, and shall be under the control and management of those having charge of such prison, subject to such rules and regulations as the county court or city council [municipal assembly] of St. Louis city may establish for such prisons, and if the said party committed is unable to pay the fine and costs, if such be the punishment for the offense, in whole or in part, in payment of such fine and costs, the party committed shall be allowed for his or her work at the rate of fifty cents per day, nor shall an imprisonment for non-payment of fine and costs exceed the period of six months. (Laws 1869, p. 199, sec. 33; R. S. 1899, p. 2547—f.)

Sec. 135.—**Payment of fine after commitment.**—Any person, after being committed to the work-house or other place of imprisonment provided by the county [city] of St. Louis, for non-payment of his or her fine and costs, desiring to pay the same, shall make application to the judge of said court of criminal correction, who shall in open court order the fine and all costs of such person to be paid to the clerk of said court, whose duty it shall be to receive the same, enter satisfaction on the execution in his execution book, and give notice in writing, under the seal of said court, to the superintendent or person having charge and control of said

(e) This section is valid in so far as it fixes the place of imprisonment, and void in so far as it fixes a different punishment from the general law: *Ex Parte Thomas*, 10 Mo. App. 24, following *Jilz Case*, 3 Mo. App. 243; see also *In re Jilz*, 64 Mo. 243, 246. In *State vs. Buchardt*, 144 Mo. 83 also, this section in so far as inflicting a different punishment for petit larceny than the general State law, is held unconstitutional, but the conviction (for one year) was sustained because of another statute allowing at the courts' discretion, sentence to the workhouse instead of county jail, and the sentence here was for the same period. See also *In re Lorkowski*, 94 Mo. App. 623, holding that a prisoner is entitled to allowance in working out his fine under the State law at a dollar a day instead of as provided in the section succeeding this one, following the cases above cited.

As to imprisonment in work house or jail, see also note ante to sec. 114. See also ordinances and notes thereto appended respecting work house in *Rev. C. Ch. 21, Art. 4* (secs. 1742 et seq.) and note to R. C., sec. 1265.

(f) This section fixing the allowance at fifty cents per day is in conflict with sections 2384 and 1793 of the R. S. 1899, allowing one dollar per day to the prisoner, and the latter, passed at a subsequent date, operates to repeal the former: *In re Lorkowski*, 94 Mo. App. 623, 629, also discussing the provisions relating to commitment to House of Refuge instead of workhouse and holding them partly void. In a concurring opinion Judge Goode holds the law of commitment to House of Refuge void altogether

work-house, that the execution against such person has been fully satisfied, whereupon such person shall immediately be discharged from said work-house or place of punishment. (Laws 1869, p. 199, sec. 34; R. S. 1899, p. 2547.)

Sec. 136. **Place of imprisonment, how provided.**—The county court of St. Louis county shall have power to contract with the city of St. Louis for the use of the city work-house for the purpose of confining and putting to labor therein the persons convicted in said court, or said county court may provide a suitable place other than the said work-house, as a prison for such persons, and in that event, then such persons shall be sentenced to confinement in such prison as the county may have provided. (Laws 1869, p. 199, sec. 35; R. S. 1899, p. 2547.)

Sec. 137. **Appeals from police court.**—Hereafter all appeals from the police court or the police judges of the city of St. Louis [in the county of St. Louis], shall be made to, and tried and determined by, the St. Louis Court of Criminal Correction, in the same manner as provided by law in regard to other cases of appeal to said court. (Laws 1873, p. 358, sec. 1; R. S. 1899, p. 2547—*g.*)

Sec. 138. **Costs in criminal cases.**—All the provisions of the act concerning costs in criminal cases shall be held to apply to the St. Louis court of criminal correction, and the duties devolved by said act upon the officers therein named are hereby devolved upon the officers of said court, respectively, with reference to all cases brought in said court, and such costs shall be paid as in said act provided, and the fee-bills in all cases shall be taxed and certified on the first Monday of every month, or as soon thereafter as the business of said court will permit. (Laws 1881, p. 107; R. S. 1899, p. 2547, sec. 37—*h.*)

Sec. 139. **Fee-bill, how made and certified.**—Immediately upon the passage of this act, the clerk of said court shall tax fees in all cases as provided by law, and make out fee-bills for the same, which said fee-bills shall be delivered to the judge and prosecuting attorney of said court, and examined by them. If said judge and prosecuting attorney find the said fee-bills to be correct, they shall certify the same for allowance and payment to the state or city auditor, as the case may be, and said fee-bills shall be audited and paid as other costs in criminal cases. (Laws 1881, p. 107; R. S. 1899, p. 2547.)

ARTICLE IVa.

COURT OF GENERAL SESSIONS.*

Sec. 139a. **Court of record established, name.**—There is hereby established in the city of St. Louis a court which shall be called and known as the St. Louis Court of General Sessions. Said court shall be a court of record, with criminal jurisdiction, as hereinafter provided, and it shall possess generally the powers, perform the duties, and be subject to the restrictions of a court of record according to the laws of this state. (Laws 1907, p. 212, sec. 1.)

Sec. 139b. **Election and qualification of judge, appointment.**—At the general election in November, 1908, and every four years thereafter, there shall be elected by the qualified voters of the city of St. Louis a judge of said court, who shall possess all the qualifications of a judge of the circuit court and shall hold his office for the term of four years from and after the first Monday in January next succeeding his election and until his successor shall be duly elected and qualified; unless sooner removed from office under the general provisions of the law for the removal of judges from office. Upon the going into effect of this act, the governor shall appoint a judge of said court, who shall serve as such judge until the first Monday in January, 1909, or until the duly elected judge of said court shall be qualified. (Ib., p. 213, sec. 2.)

Sec. 139c. **Appointment, powers and pay of provisional judge.**—In the event of the sickness, absence, or any inability to act, of the judge of said court, the circuit court in the city of St. Louis, or any judge thereof, in vacation, may appoint for the time being a provisional judge of said court, who shall possess the qualifications above prescribed, and such provisional judge for the time being, having first taken the oath of office, shall have all the powers and perform all the duties conferred and imposed by law upon the judge of said court. If the sickness, absence, or inability to act, of the regular judge shall continue, at any one time, for a period exceeding one day, it shall be the duty of the clerk of said court to certify the fact to the auditor of the city of St. Louis, who shall deduct,

(*g*) Appeals from the Police Court to the Court of Criminal Correction under this section are to be taken as appeals from convictions before justices of the peace elsewhere in the State; the affidavit for appeal should be filed the same day of the conviction, unless some good reason for delay is shown: *St. Louis vs. Gunning Co.*, 138 Mo. 347. See further as to appeals Session Laws 1907, p. 91. And see particularly note to sec. 1305 of Rev. Code.

(*h*) *State ex rel. vs. Wilder*, 193 Mo. 1. c. 172.

*This court was created at the 1907 session of the Legislature (act of April 15, 1907) and too late to permit of insertion of the sections in regular succession, hence the use of alphabetical lettering.

in his next monthly payment, from the salary of said regular judge the number of days absent and the amount thereof in proportion to his salary, and during the time said provisional judge shall actually perform the service and duties of such judge he shall receive the same salary as said regular judge, to be paid out of the treasury of the city of St. Louis out of the salary of said regular judge. (Ib., sec. 3.)

Sec. 139d. Jurisdiction of court and judge, salary.—Said court of general sessions shall have exclusive jurisdiction in the city of St. Louis of the hearing and determination of all preliminary examinations of charges of felony, and in misdemeanors, as hereinafter provided, and the judge of said court shall possess all the power of an examining magistrate in felony cases as exercised by justices of the peace generally under the laws of this state. Said judge shall be a conservator of the peace within the city of St. Louis; he shall have power to issue writs of habeas corpus in matters of a criminal nature, and determine the same, to administer oaths and affirmations, and to take and acknowledge recognizances in all cases within the jurisdiction of said court. He shall receive an annual salary of four thousand dollars, to be paid in monthly installments by the city of St. Louis. (Ib., sec. 4.)

Sec. 139e. Clerk of the court.—The clerk of the circuit court for criminal causes in the city of St. Louis shall be ex officio clerk of said court of general sessions; he shall have power to appoint one or more deputies for service in said court, as necessities may require, under the direction of said court, and in addition to the salary now allowed to him by law he shall receive a further compensation not to exceed \$2,500.00, to be retained out of the fees and costs collected by him, as now provided by law. Said amount of \$2,500.00, to be applied to the payment of the salaries of deputy clerks and to be in full therefor. He shall have charge of the books, papers, records and seal of the said court of general sessions and the business pending therein, and shall perform generally all the duties of a clerk of a court of record therein. Said clerk shall keep a seal of said court of general sessions, with such emblems and devices as shall be prescribed by the judge of said court, which seal shall be used by said clerk in attesting all writs, process, papers and documents signed and issued by him; and all such writs, process, papers and documents shall be signed by him as clerk of the St. Louis court of general sessions. (Ib., sec. 5.)

Sec. 139f. Informations and process.—After the going into effect of this act, all causes and proceedings in said court of general sessions shall be instituted and prosecuted by the circuit attorney of said city of St. Louis and his assistants. All informations setting forth the offense in preliminary examinations on charge of felony shall be prepared and lodged by said circuit attorney or his assistants, and shall be sworn to before the clerk of the circuit court for criminal causes as ex officio clerk of said court of general sessions. All warrants and process in such cases shall be issued under the hand of said clerk with the official seal of said court thereto affixed, as above provided. (Ib., p. 214, sec. 6.)

Sec. 139g. Sessions and continuances.—Said court of general sessions shall be in session on each and every day in the year, except on Sundays and on national and state holidays. The proceedings therein shall be conducted in a summary manner, and no continuance shall be granted to the state nor to the defendant for a period longer than three days except upon the affidavit of the party applying therefor: Provided, that the court may establish such rules in relation to continuances as shall be just and proper to prevent undue delay, or to prevent injustice to the defendant, and the costs of any continuance shall be taxed against the party applying therefor, unless the court for good cause shall otherwise order. (Ib., sec. 7.)

Sec. 139h. Practice and proceedings.—The proceedings of said court shall be governed by the laws regulating proceedings and practice in criminal cases, so far as the same may be applicable, and no written pleadings shall be required of the defendant in any case. All examinations shall be conducted during the open sessions of said court, and all persons may freely attend the same; and the court may assign counsel to defendants under the same circumstances as in other criminal trials. The court may establish rules of practice for the convenience and dispatch of business, not inconsistent with the laws of the state. (Ib., sec. 8.)

Sec. 139i. Statutes of joefails.—The statutes of joefails, as applicable to criminal proceedings and pleadings, shall apply to all informations lodged in said court; and the court shall have power to permit any amendments of information, process or proceedings in furtherance of the ends of justice at any time before the determination of the cause. (Ib., sec. 9.)

Sec. 139j. Recognizances.—Said court shall have power to take recognizances in all cases within its jurisdiction and to declare forfeiture of the same. When judgment of forfeiture has been entered on any such recognizance, the clerk

must certify and return to the circuit court division having criminal jurisdiction in said city the recognizance and a transcript of his record in relation thereto, to be proceeded on in said circuit court as other forfeited recognizances in criminal cases in said circuit court. (Ib., sec. 10.)

Sec. 139k. Proceeding when misdemeanor appears.—Whenever, in the course of any proceeding in said court upon an information for felony, it shall appear that the defendant has been guilty, in the particular matter, of a misdemeanor only, the court shall discharge the defendant from the felony charge and may admit him to bail to answer to an information for the misdemeanor to be filed by the prosecuting attorney in the court of criminal correction, or, in default of bail, commit the defendant to jail to await such action by said prosecuting attorney; but no such commitment shall be for a longer period than forty-eight hours; and if no such information be filed in said court of criminal correction within such period, the defendant shall be discharged. But if the defendant in such case shall desire to plead guilty to such misdemeanor and to receive sentence therefor, waiving his right to a jury and to an information for the misdemeanor, the court may accept such plea of guilty and assess such punishment as may be fixed by law for the offense, and issue a commitment or execution therefor, with the same force and effect as if such defendant had been tried for such misdemeanor in the court of criminal correction, and the record shall show the whole proceedings. (Ib., p. 215, sec. 11.)

Sec. 139l. Duties of circuit attorney, etc.—It shall be the duty of the circuit attorney, or such assistants as he may designate, to attend at his office on each day of the week except Sunday and national and state holidays at all reasonable hours, for the purpose of preparing all complaints, affidavits, informations and pleas required by law to be lodged in said court. (Ib., sec. 12.)

Sec. 139m. Chief of police; reports to circuit attorney.—It shall be the duty of the chief of police of the city of St. Louis, within twenty hours after the arrest by the police of any person for felony under the laws of this state, to report to the circuit attorney the name of the person so arrested, and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution. (Ib., sec. 13.)

Sec. 139n. Sheriff, duties and fees.—The sheriff of the city of St. Louis shall attend said court of general sessions, execute all writs and process issued therefrom, and discharge all such other duties in and about said court as are now required by law of sheriffs in attendance upon circuit courts, and shall be allowed the same fees for all such services as are now allowed him for the same in the court of criminal correction, to be taxed and collected as other costs in criminal cases. (Ib., sec. 14.)

Sec. 139o. Witnesses, fees, attendances, etc.—Witness fees shall be allowed and taxed only when claimed in open court, or to the clerk on the day of attendance, and at the rate of fifty cents per day for each day's attendance. (Ib., sec. 15.)

Sec. 139p. Costs, fee bills.—All the provisions of the act concerning costs in criminal cases shall be held to apply to the St. Louis court of general sessions, and the duties devolved by said act upon the officers therein named are hereby devolved upon the officers of said court; and such costs shall be paid as in said act provided, and the fee bills in all cases shall be taxed and certified on the first Monday of every month, or as soon thereafter as the business of said court will permit. (Ib., sec. 16.)

Sec. 139q. Clerk's report to auditor of collections.—The clerk of said court shall, once every three months, make and certify to the auditor of the city of St. Louis a detailed statement of all the fines, penalties, and forfeitures imposed by said court and collected by the sheriff, and said clerk shall at the time make a like statement of all fines, penalties and forfeitures and of all fees and costs collected by him and shall pay the same into the city treasury at the time of making said required statement, less the amount allowed to be retained by him, as provided in section five of this act. (Ib., p. 216, sec. 17.)

Sec. 139r. Supervision over officers and property.—Said court shall exercise a careful supervision over all officers connected therewith in relation to money or other property found on the persons of alleged offenders and taken from them, and shall see that the same is properly preserved; that the rights of offenders or other parties in relation thereto are protected and enforced, and that all laws applicable to such cases are duly executed, and it shall have power to enforce all its orders in relation to such matters by attachment of the body. (Ib., sec. 18.)

Sec. 139s. Rooms for court and officers.—The municipal assembly of the city of St. Louis shall provide rooms for said court and for the clerk thereof, in one of the courthouses of said city, or in such other building as said assembly may contract or provide for the holding of courts, and also suitable offices con-

tiguous thereto for the circuit attorney and his assistants prosecuting causes in said court, and the said assembly shall furnish said rooms and offices with fuel and light and other things as may be necessary for the court. All stationery actually required for the use of said court, or the officers thereof, shall be furnished by the city of St. Louis upon the application of the clerk of said court. (Ib., sec. 19.)

Sec. 139t. Stenographer of the court.—The judge of said court shall appoint a stenographer of said court, who shall hold his office from month to month, during the pleasure of said court, who shall receive a monthly salary of \$150.00, to be paid out of the treasury of the city of St. Louis as other court stenographers in said city. He shall take oath to faithfully discharge the duties of reporter of said court; he shall attend the daily sessions of said court and take accurate shorthand notes of the evidence in cases in said court, and shall furnish transcripts of his said notes, or any part thereof, in legible English, for the use of the circuit attorney, when so directed by the judge of the court or requested by the circuit attorney. In the absence of said stenographer, the judge may appoint a temporary stenographer, who shall perform the duties and receive the same compensation per diem as the regular stenographer. (Ib., sec. 20.)

Sec. 139u. Janitor of said court.—The judge of said court may appoint a suitable person janitor of said court, by order entered of record, who shall discharge the duties required of such janitor in and about the rooms of said court, as provided by law for janitors of circuit courts, and who shall receive a salary not to exceed \$720.00 per annum, payable in monthly installments out of the treasury of the city of St. Louis, in the same manner as the salaries of the janitors of the circuit court in said city are now paid. (Ib., sec. 21.)

Sec. 139v. Court of criminal correction no jurisdiction.—Upon the taking effect of the act no information for felony shall be lodged in the St. Louis court of criminal correction, and the judge of said court of criminal correction shall not further exercise the powers or jurisdiction of an examining magistrate in charges of felony, except that all informations and prosecutions for felony then pending and undetermined in said court of criminal correction shall be proceeded with in said court to final determination by the judge of said court, with the same force and effect as if this act were not passed, and in all such cases the same proceedings shall be had and all costs and fees taxed and certified in said court of criminal correction as heretofore. (Ib., p. 217, sec. 22.)

Sec. 139w. Emergency.—The large increase of criminal business in the city of St. Louis, and the heavy burden imposed thereby upon the St. Louis court of criminal correction, causing expensive delays in the administration of justice in criminal prosecutions, create an emergency within the meaning of the constitution; therefore this act shall take effect and be in force from and after its passage. (Ib., sec. 23.)

ARTICLE V.

JURIES.

Sec. 140. Commissioner, how appointed.—In every city in the state of Missouri having over one hundred thousand inhabitants, it shall be the duty of the judge or judges of the court or courts having general jurisdiction of civil causes within such city, together with the judge or judges of the court having jurisdiction within such city in cases of felony, or a majority of all such judges, to appoint, within thirty days after the passage of this act, and at such other times as hereinafter authorized, a suitable person who shall, for at least five years next preceding his appointment, have been a resident of such city, to be jury commissioner for said city. (Laws 1879, p. 28, sec. 1; R. S. 1899, sec. 6539—i.)

Sec. 141. Qualifications of commissioner.—No person shall be appointed to or hold said office of jury commissioner while holding any office or employment provided for or authorized by the charter of said city, nor while holding any other office of record under the laws of this state. (Laws 1879, p. 28, sec. 2; R. S. 1899, sec. 6540.)

Sec. 142. Appointment to be entered of record—tenure.—Such appointment shall be made in handwriting, and signed by the judges making the same. A copy thereof shall be forthwith entered of record in each of the courts mentioned in section one of this act, and a certificate of such record appended to said original by the clerk, and under the seal of each of said courts; and thereupon the said original shall be delivered by the clerk last certifying such record thereof to the register of said city, by whom the said original shall be filed and preserved in his office, as other official papers in his custody. The person so appointed shall hold said office for the term of four years from and after the first day of May in the year of his

() As to ordinance on jury commissioner, see R. C. sec. 1334.

appointment, unless he shall sooner cease to reside in such city, or become otherwise disqualified or removed from office. A majority of the judges, for the time being, of the courts mentioned in section one of this act, shall have power, at any time, to remove such jury commissioner from his said office for any cause by them deemed sufficient, by a writing under their hands, declaring the fact of such removal: Provided, that a copy of such writing shall be forthwith entered of record in each of said courts by order thereof, respectively, and the original thereof being certified as above provided, in respect of the original appointment, shall, in like manner, be filed with and preserved by the register of such city; and from the time of such filing thereof it shall be unlawful for the person so removed to exercise any duty, or function of said office. In case of any vacancy occurring in said office of jury commissioner, during the term for which any person was appointed thereto, or by expiration of such term, it shall be the duty of the judges for the time being of the courts mentioned in the first section of this act, or a majority of them, without delay, to fill such vacancy by appointment of some person possessing the proper qualifications hereunder, in like manner as hereinbefore provided. (Laws 1879, p. 28, sec. 3; R. S. 1899, sec. 6541.)

Sec. 143. Oath of commissioner.—Before entering upon the duties of his office, the person so appointed jury commissioner shall take and subscribe, before the register of said city, an oath faithfully and impartially to discharge the duties thereof, which affidavit shall be filed and preserved with his said appointment in the said register's office. (Laws 1879, p. 29, sec. 4; R. S. 1899, sec. 6542.)

Sec. 144. Salary.—Said jury commissioner shall receive a salary of twenty-five hundred dollars per annum, payable in equal monthly installments, at the end of each month, by the treasurer of said city, out of any moneys appropriated therefor by the municipal assembly, upon warrants drawn and countersigned by the proper officers of said city, pursuant to the charter thereof. It shall be the duty of the municipal assembly to appropriate the money necessary for the payment of such salary, as other salaries of city officers are provided for. The municipal assembly of said city shall also, from time to time, provide said jury commissioner with suitable accommodations, and with the necessary fuel, stationery, books and furniture for the proper discharge of his duties. (Laws 1879, p. 29, sec. 5; R. S. 1899, sec. 6543.)

Sec. 145. Deputies.—Said jury commissioner shall from time to time, when necessary for the discharge of the duties of said office, appoint, in writing, one or more deputies, whose appointment, respectively, shall be first submitted to and approved, in writing, by the said judges, or a majority of them. Before any such appointment shall take effect, a copy thereof shall be entered of record in each of said courts, and a certificate of said record appended to the original, and said original filed with and preserved by the register, in like manner as above provided concerning the appointment of such jury commissioner. Said judges, or a majority of them, or said commissioner, may, at pleasure, remove any deputy so appointed, by a writing signed by them or him, declaring such removal, which shall also be forthwith recorded and filed in like manner as provided in section 3 hereof, concerning the removal of the jury commissioner. Said judges shall not approve the appointment of a greater number of deputies than they shall be satisfied is necessary for the faithful performance of the duties of said office, and shall, at any time, remove any deputy previously appointed, whose continuance as such shall not, in the judgment of a majority of them, be necessary therefor. Every such deputy, before entering upon his duties as such, shall take and subscribe before and file with said register, an oath that he will faithfully and impartially discharge his duties under this act. It shall be the duty of every such deputy to obey the lawful orders of the said jury commissioner in all matters pertaining to the proper execution of the duties of said office, and diligently to assist in fulfilling the same. The said jury commissioner shall, in writing, by and with the approval of the said judges or a majority of them, designate one of said deputies to act as principal deputy jury commissioner, and said principal deputy shall be vested with all the powers and duties of the jury commissioner during the necessary absence, sickness or other disability, of said jury commissioner. (Act March 23, 1891, Sess. Laws 1891, p. 171; R. S. 1899, sec. 6544.)

Sec. 146. Pay of deputies.—Each of said deputies shall receive for his services a salary at the rate of not exceeding five dollars per day, for every day during which he shall be actually employed in performing his duties as such. The amount of such salary shall be fixed by the jury commissioner in each case, and such salary shall be provided for and paid monthly, in like manner as above provided for the payment of the salary of such jury commissioner. But said auditor shall not audit or certify any claim for a salary in favor of any such deputy, except upon the certificate of the jury commissioner that the services for which such claim is made were in fact rendered by such deputy, pursuant to the orders of the jury commissioner, and were necessary for the proper discharge of the duties of said office. (Laws 1879, p. 30, sec. 7; R. S. 1899, sec. 6545.)

Sec. 147. Duties of commissioner.—Said jury commissioner shall, between the first day of May and the first day of September, in the year 1879, and during the like period in every second year thereafter, in person or by deputies, visit every house within the limits of the city for which he is appointed jury commissioner, and shall, so far as practicable, ascertain by personal inquiry and all other lawful means within his reach, and shall take down the name, occupation and place of residence of every person residing in said city (except as herein otherwise provided), who is qualified for and subject to the performance of jury duties, noting, wherever practicable, the number of the house and name of the street in which such person resides or does business. And every male citizen of this state, resident in such city, sober and intelligent, of good reputation, over twenty-one years of age, and not exempt from jury duty by the general laws of this state, or otherwise disqualified or excused as provided in this act, shall be deemed to be qualified for and subject to the performance of jury duty under the provisions hereof. (Laws 1879, p. 30, sec. 8; R. S. 1899, sec. 6546.)

Sec. 148. Who exempt from jury duty.—The name of no person shall be taken down who shall, when called on by said commissioner or his deputy, establish to the satisfaction of such commissioner or deputy, by competent proof and upon diligent inquiry made by said officer, a legal exemption from jury duty as a member of any military or fire company or otherwise; or who is not sufficiently acquainted with the English language to read and write the same, and to understand clearly the proceedings ordinarily had in courts of justice; or who is actually exercising the functions of a clergyman, practitioner of medicine, druggist or apothecary, attorney at law, ferry keeper, or person in actual charge of any mill, or of professor or other teacher in any school or institution of learning, or who is over the age of sixty-five years, or who is actually and regularly employed in the navigation of the Mississippi river or its tributaries, or who is in the employment of any railroad company, or who holds any office of profit or employment created by or authorized under the laws of the United States, or of the state of Missouri, or the ordinances of the city within which such jury commissioner is appointed. Nor shall the said commissioner or his deputies take down the name of any person of ill-fame, or of drunken or disorderly habits, or any person who shall be found loitering about without visible means of support, and without applying himself to any honest calling for a livelihood, or who is a vagrant within the meaning of the laws of this state or ordinances of said city touching vagrants. And it shall be the duty of said jury commissioner and each of his deputies diligently to inquire and inform himself, by all lawful means, in respect of the qualifications of every person resident in said city who may be liable under the provisions of this act, and the laws of this state, to be summoned for jury duty. But nothing contained in this act shall be construed to compel any person to serve upon any jury who is exempt from such service by reason of any general law of this state. And it shall be the duty of every court of record in said city to excuse from service as a juror every person who, being examined on the *voir dire*, shall appear to the court to be a person whose name ought not to have been placed upon the jury list under the provisions of this act, or who has served on any jury in any court of this state within twelve months next preceding, if challenged for that cause, by either party of the suit; and the court may excuse such person without challenge by either party. (Laws 1879, p. 30, sec. 9; R. S. 1899, sec. 6547—j.)

Sec. 149. Questions to be answered under oath.—The said commissioner, or any of his deputies, may, at any and all times within reasonable hours, require any person to answer, under oath, to be administered by such commissioner or his deputy, all such questions as he may address to such person, touching his name, age, residence, occupation and qualifications as a juror, with a view to the due and faithful enforcement of this act and also all questions as to similar matters touching all persons in his employment or forming a part of his household. Such questions, or any of them, may be put in writing, and the party may be required to answer them in writing, and to sign his name to his answers. Whoever shall refuse to be sworn, when required by the commissioner or any of his deputies, or when sworn shall refuse to answer pertinently, and in writing if required, all such questions addressed to him, and to sign his name to such answers when thereto required by such commissioner or deputy, may be summarily arrested, and taken by such commissioner or deputy before some one of said judges, who, upon being satisfied of such refusal, may summarily commit the person so refusing to jail, there to remain until he shall be sworn and answer the questions so put to him. And whoever shall willfully and corruptly make and swear to any false answers to any questions put to him by the said jury commissioner or any of his deputies, under and in pursuance of this act, shall be deemed guilty of a misdemeanor, and, upon conviction, be punished by imprisonment in the jail of such city for not less

(j) The disqualification of persons who cannot read and write English, is constitutional: *State vs. Welsor*, 117 Mo. 570. Dentist not exempted: *State ex rel. vs. Fisher*, 119 Mo. 344; *Fire Wardens*: *In re Powell*, 5 Mo. App. 220. Serving on jury more than once in twelve months: *Williamson vs. Transit Co.* 100 S. W. 1072 (Sup. Ct. March 19, 1907).

than three nor more than twelve months, or by fine not less than five hundred dollars, or by both fine and imprisonment. Said commissioner and each of his deputies may administer any oath authorized by this act. (Laws 1879, p. 31, sec. 10; R. S. 1899, sec. 6548.)

Sec. 150. Jury lists, how made up.—As soon as practicable after the first day of September, 1879, and at the like period in every second year thereafter, the said commissioner shall enter or cause to be entered in alphabetical order, in the book next hereinafter mentioned, the name, residence and occupation of each person residing in said city and liable to jury duty under this act, obtained by him under the foregoing provisions. Such book shall be prepared with suitable rulings and headings, and kept by him as a register of jurors for the two years next after the last day of September in the year when it is made up. A new book or register of jurors shall be prepared and made up immediately after each biennial enumeration above provided for; and during the period while each of such registers is in use, said commissioner shall from time to time carefully examine and correct the entries therein, adding all names that shall come to his knowledge after such book is made out, and which, if then known, ought to have been entered therein in pursuance of this act, striking off the names of all persons who have died or have removed permanently from said city, noting changes of residence or business of parties, and otherwise giving such continuous care and attention to the lists in such book, that the same shall at all times, as nearly as practicable, show the names of all persons who are subject to perform jury duty in said city during the year beginning on the first day of October next following the time of making such lists. Said register of jurors shall be prepared with proper rulings and headings to show the full name, occupation, residence and place of business of each juror, claim and allowance or refusal of exemption, actual service on juries, and such other matters as may be requisite to carry out the provisions of this act; and said judges mentioned in the first section hereof, or a majority of them, may at any time make such order in writing, not inconsistent with this act, touching the books to be kept by said commissioner, and the performance of his duties generally, as they may judge the public interest to require, which order shall be obeyed by said commissioner. (Laws 1879, p. 31, sec. 11; R. S. 1899, sec. 6549.)

Sec. 151. Notice, how given to exempts.—Within three days after the first day of September, in each year, said commissioner shall give notice by advertisement daily for one week, in two English newspapers of opposite politics, and in not more than two newspapers printed in any other language, all printed and published in said city, and which said newspaper shall be designated by the said judges, or a majority of them, with reference to their comparative circulation, which advertisement shall state that the jury list for the ensuing year has been made out and is open for inspection at his office, and requiring all persons claiming legal exemption from jury duty to produce to him, at said office, within not more than twenty days after the first publication of said notice, competent proof of the exemption claimed, and further giving notice that he will be in attendance daily at said office, designating the locality thereof, during said period of twenty days, between the hours of nine and twelve in the forenoon and three and six in the afternoon, for the purpose of hearing and determining claims of exemption, and for this purpose said commissioner shall be in attendance, in accordance with such notice. (Laws 1879, p. 32, sec. 12; R. S. 1899, sec. 6550.)

Sec. 152. Exemptions, how noted.—If any person whose name has been entered on the register as liable to jury duty shall, within the time so notified, produce proof satisfactory to said commissioner of his exemption from jury duty, or that his name should not have been entered on said list under the provisions of this act, his name shall be noted by said commissioner as exempt for the ensuing year on said register, with the reason therefor; but no person whose name shall have been placed upon said register of jurors, and who shall neglect within the period prescribed by said notice to claim exemption from jury duty, shall be entitled to claim the benefit of such exemption when summoned as a juror. (Laws 1879, p. 32, sec. 13; R. S. 1899, sec. 6551.)

Sec. 153. Courts to pass upon exemptions.—Whenever the commissioner shall refuse to mark the name of any person as exempt on said register of jurors who shall within said time have claimed exemption, he shall give to such person a certificate, stating that the exemption has been claimed and refused, and the ground on which it was claimed; and when such person shall be summoned as a juror, he may appeal to the court in which he is summoned from the decision of the commissioner, and may be discharged if the court shall adjudge that he is legally entitled to exemption on the ground certified by the commissioner to have been taken before him. No ground of exemption shall be taken before the court except that so certified by said commissioner, unless it arose after the time within which claims of exemption or disqualification could be heard as aforesaid by said commissioner. (Laws 1879, p. 32, sec. 14; R. S. 1899, sec. 6552.)

Sec. 154. Names, how copied and drawn.—As soon as practicable after said register of jurors shall have been completed or corrected for each ensuing year, in the manner above provided, the commissioner shall copy each name appearing thereon as liable to jury duty on a separate ticket and deposit all the tickets in a hollow wheel, to be provided for that purpose by said city and kept by him, in which wheel the said tickets shall remain securely locked, except when drawn out in the manner hereinafter directed. Said commissioner shall have the custody of said wheel, and shall permit no person other than himself, or his deputies under his orders, to place any ticket or other paper therein, or to withdraw any ticket therefrom, and it shall be his duty to see that said wheel and its contents are not interfered with by any other person. (Laws 1879, p. 33, sec. 15; R. S. 1899, sec. 6553.)

Sec. 155. Jurors, how drawn.—Whenever jurors shall be required to serve in any of the courts mentioned in the first section of this act, or in any other court of record established in said city, under the laws of this state, in which a jury may be required, such court may order the sheriff or marshal, or other officer charged with executing the process thereof, to summon a sufficient number of jurors, as occasion may require. Thereupon such officer shall obtain the names and places of residence or business of persons to be summoned as jurors in said court, from said jury commissioner, who, upon the production to him of such order, shall furnish the same to said officer, by drawing tickets from said wheel. Before any drawing shall be made, the commissioner shall turn the wheel repeatedly, in such manner as to thoroughly mingle said tickets, and to prevent the possibility of their being drawn out in any concerted or particular order. He shall then draw out one ticket at a time, and no more, and shall immediately enter the name and residence of the person indicated by such ticket on a list to be furnished to the officer, and also make an entry in his alphabetical list, showing that such name has been drawn out, and shall proceed in like manner until the number of names required by said officers shall have been drawn, and the list of names required by such officers completed; and neither said commissioner nor any of his deputies shall furnish or give to any such officer, as liable to jury duty, any name other than the name so drawn from said wheel in the manner herein provided, nor shall any such officer summon as a juror, unless by express order of the court, any person whose name shall not have been furnished to him by said commissioner, in accordance with this act. Said commissioner shall also copy in another book, with proper headings, to be kept by him, the list so made for such officer, showing the date when and the court for which the names thereon were drawn, and shall deliver to said officer the said list certified by him, said commissioner, as having been furnished to said officer, in compliance with the order of said court. He shall not, at any such drawing, take any more names from the wheel than the number of jurors required by the officers under such order of court, unless it appear that he has drawn names of persons whom, after their names were placed in the wheel, the alphabetical lists, or register of jurors kept by said commissioner, shall show to have died or removed permanently from said city, in which case additional names, sufficient to supply the deficiency may be drawn. The tickets so drawn out shall not be put into said wheel again during the year, but shall be deposited and kept by said commissioner in a box to be provided for the purpose, and which shall remain in his custody securely locked, unless before the end of the year all of the tickets shall be drawn out, and jurors shall still be required; in which case all the tickets shall be put back into the wheel again, and after being thoroughly mingled, shall be drawn therefrom in the manner aforesaid, as required for jury service in said courts respectively, until the end of the year. If at the end of the year any tickets remain in the wheel that have not been drawn out during the year, they shall all be taken out of said wheel, as soon as the jury list for the next year is prepared as hereinbefore provided, and shall be immediately burned or otherwise effectually destroyed by said commissioner or one of his deputies, together with all of the tickets which shall have been drawn out of said wheel during the year next preceding, as hereinbefore provided. It shall be the duty of said commissioner, whenever he shall furnish to the sheriff, marshal or other proper officer of any of said courts, the names of jurors as hereinbefore provided, to make out immediately a transcript of the list so furnished to such officer from the book in which he shall have copied the same, and to deliver or cause to be delivered such transcript to the judge or judges from whose court or courts or court rooms respectively the same has been required, certifying such transcript and stating the date when, and the officer to whom, and the court for which said list was furnished by him. (Laws 1879, p. 33, sec. 16; R. S. 1899, sec. 6554.)

Sec. 156. Jurors, how summoned.—Whenever the jury commissioner shall furnish to the proper officer of any of said courts the names of persons for jury service as hereinbefore provided, such officer shall forthwith summon the persons whose names are so furnished to attend as jurors at the time directed by the court,

or he shall show the court good cause for not having done so. The court shall investigate the truth and sufficiency of the cause shown, and if the same be found untrue or insufficient, or if it shall appear to the court that such officer has made false return in any respect concerning the execution of the order for summoning said jurors, the court may fine such officer as for a contempt of court, for every such untrue or insufficient excuse or false return, in any sum not exceeding one hundred dollars. For any other neglect or willful violation in regard to the jury service of the court, whether prescribed by law, rule or order, the court may impose a like fine upon such officer; but nothing herein contained shall be construed to protect or excuse any such officer from liability to criminal proceedings under the laws of this state, for any willful misconduct or misdemeanor in office, or neglect to perform any duty enjoined upon him by law. (Laws 1879, p. 34, sec. 17; R. S. 1899, sec. 6555.)

Sec. 157. Absent juror. No person who cannot be found to be summoned shall, for that reason, be dropped from the panel until, and after repeated efforts to find him, the court shall so order. (Laws 1879, p. 34, sec. 18. R. S. 1899, sec. 6556.)

Sec. 158. Excuses, how dealt with.—Whenever any person summoned as a juror under this act shall be excused by the court from service, the court shall decide whether he shall be excused for the year ending on the last day of September next ensuing, or only temporarily. If excused for the year, his name shall be dropped from the panel, but if excused temporarily, the court shall designate the time when he shall serve, and the sheriff or other proper official shall see that he be then in attendance. (Laws 1879, p. 34, sec. 19. R. S. 1899, sec. 6557.)

Sec. 159. Time and length of service of juror. Each of said courts hereinbefore referred to may direct from time to time the number of jurors to be summoned for said court, and how long they shall be summoned before their attendance shall be required, and how long they shall serve, and may make all rules and orders by it deemed proper touching the jury service of the court, not inconsistent with the provisions hereof, and may enforce the same by attachment and by fine not exceeding one hundred dollars. Each of said courts shall also see that the commissioner discharge his duty faithfully. And it shall be lawful for either of said courts, if and whenever it shall appear to such court that said jury commissioner has, in any respect, willfully neglected or violated his duty under the provisions of this act, to fine him not exceeding two hundred and fifty dollars. And it shall be the duty of the clerk of such court, immediately upon the imposition of any such fine, to enter the same of record in said court, and to certify the date and the amount thereof to the auditor of said city, by whom the said amount shall be deducted from the salary of said commissioner next thereafter falling due, until the same shall be liquidated. (Laws 1879, p. 34, sec. 20. R. S. 1899, sec. 6558.)

Sec. 160. Bribery of commissioner—punishment.—Whoever shall, directly or indirectly, give or offer, or agree with any person to give to the said jury commissioner, or to any of his deputies, any money, goods, right in action, or any other valuable consideration, gratuity or reward, or shall make or enter into any promise, undertaking or security for the payment of any money, or for the giving, assigning or transferring of anything of value to the said commissioner, or any of his deputies, or to any other person, with intent to influence or induce the said commissioner, or any of his deputies, to omit or strike from the jury list hereinbefore required to be made out and kept, the name of any such person, or of any other person, or with intent to induce or influence the said commissioner, or any of his deputies to omit to put the name of such person or of any person on a ticket as required by this act, or with intent to induce or influence said commissioner, or any of his deputies, to omit to deposit in the wheel which said commissioner is required to keep, a ticket bearing any name which under the provisions hereof, it shall be the duty of said commissioner to deposit in said wheel, or with intent to influence or induce the said commissioner, or any of his deputies, to delay or omit to do any other act or thing which he is required by law to do, or to do any unlawful act or thing in or relating to the duties of his office of commissioner or deputy, shall, on conviction thereof, be adjudged guilty of a misdemeanor, and be punished by imprisonment in the jail of said city for not less than six nor more than twelve months, or by fine of not less than five hundred dollars, or by both such imprisonment and fine. (Laws 1879, p. 35, sec. 21. R. S. 1899, sec. 6559.)

Sec. 161. Punishment of commissioner and deputies.—If the said jury commissioner, or any of his deputies, shall, directly or indirectly, accept or receive, or agree to accept or receive of another, any money, goods, right of action or other valuable consideration, gratuity or reward, or any promise, undertaking or security therefor, in consideration of his omitting to do any act or thing which he is required by law to do as such commissioner or deputy, or in consideration of his doing any unlawful act or thing in his office of commissioner or deputy, he shall,

on conviction, be adjudged guilty of a misdemeanor, and shall thereby forfeit his office, and in addition thereto shall be punished by imprisonment in the jail of said city for not less than six months nor more than two years, or by fine of not less than five hundred dollars, or by both such imprisonment and fine. (Laws 1879, p. 35, sec. 22. R. S. 1899, sec. 6560.)

Sec. 162. Omission of sheriff, how punished.—If the sheriff or marshal, or any other officer of any of said courts hereinbefore mentioned, charged with executing the process thereof, shall willfully or negligently refuse or omit to perform any duty required of him under the provisions of this act, or shall, in pursuance of any direct or indirect agreement, or by collusion with any person, and with intent to evade or permit to be evaded, any duty by this act required of him, permit or enable any person to escape from, or evade being summoned as a juror, or shall in pursuance of any such agreement, or by collusion with any person, and with the intent aforesaid, shall permit or enable any person who has been so summoned to escape or avoid serving as a juror, in accordance with such summons or in pursuance of any such agreement or by collusion with any person, shall enable or permit any person not summoned and liable to jury duty under this act, to serve as a juror in any of said courts, or if any such officer shall, directly or indirectly, receive, or shall, directly or indirectly, agree or offer to receive any money, goods, right in action, thing of value, or other gratuity or reward, or any promise, undertaking or security therefor, in consideration of committing any offense such as hereinbefore mentioned, he shall, upon conviction thereof, be adjudged guilty of willful misconduct and misdemeanor in office, and shall thereby forfeit such office, and shall also be punished by fine of not less than five hundred dollars, or by imprisonment in the jail of said city not exceeding two years, or by both such fine and imprisonment. (Laws 1879, p. 35, sec. 23. R. S. 1899, sec. 6561.)

Sec. 163. Compensation of jurors.—Each juror summoned and serving under this act shall receive the like compensation therefor as is or may be allowed by the general laws of this state to jurors serving in the trial of any civil or criminal case, in a court of record, unless a different rate of compensation is provided therefor by the charter or ordinance of said city. For all services rendered by petit jurors, summoned pursuant to the provisions of this act, they shall be paid out of the treasury of the city in which such services are rendered, upon the certificate of the clerk of the court in which such service was rendered, and in the manner provided by law for the auditing and payment of other claims against the said city. All fees allowed to jurors in civil causes, in either of said courts hereinbefore mentioned, shall be taxed and collected as other costs in the case, and when collected shall be accounted for and paid over by the officer collecting the same, to the proper officer of said city, as other fees collected by any officer of said city are required to be paid into the treasury thereof. (Laws 1879, p. 36, sec. 24. R. S. 1899, sec. 6562—*k*.)

Sec. 164. Exceptions to juror, when to be taken.—No exception to a juror on account of his citizenship, non-residence, state or age or other legal disability, shall be allowed after the jury is sworn; nor shall any violation of the provisions of this act by any officer be any ground of objection to any juror, unless made before such juror is sworn, nor shall it in any manner affect the verdict rendered by him. (Laws 1879, p. 36, sec. 25; R. S. 1899, sec. 6563.)

Sec. 165.—Report of commissioner.—It shall be the duty of the said jury commissioner, within one week after the first day of October in each and every year, including the year in which he shall be appointed, to make report, in writing, of his proceedings as such commissioner during the twelve months next preceding the thirtieth day of September in said year, to the court having general jurisdiction of civil causes in said city, or if there be more than one such court, then to that one of said courts which shall be indicated by direction, in writing, to said jury commissioner, of the said judges mentioned in the first section of this act [R. S. 1899, sec. 6539], or a majority of them. Such report shall be presented to said court during the session thereof, and shall be by order of said court entered in full upon the records thereof. Said report shall contain, in a concise and intelligible form, a summary of the doings of said commissioner, and shall show, among other things, the number of persons liable during the preceding year to jury duty in said city, the number of persons who have claimed exemption therefrom, the number to whom said exemption was allowed by him, and the grounds thereof briefly classified; also the number of persons claiming exemption to whom the same was refused by said commissioner; also the number of names of jurors furnished by said commissioner, for service in the several courts mentioned in this act; also a statement of the expenses of his office, including the number of deputies employed by him, and the time during which each of them was employed, and the compensation to which he has certified that they were respectively entitled as hereinbefore provided, together with such further statements as the experience of said commissioner

(*k*) Pay of petit jurors, see Scheme, sec. 31. Also ord. R. C., sec. 1335; 2412; pay of jurors and witnesses in police courts, see R. C., secs. 1297-1298.

may dictate, touching the operation of said act, and the results thereof. It shall also be the duty of said commissioner at the same time to deliver, or cause to be delivered, to the mayor of said city, for his information, a copy of said report. (Laws 1879, p. 36, sec. 26; R. S. 1899, sec. 6564.)

Sec. 166. Present commissioner to hold office till when.—The jury commissioner now holding office by virtue of the "Scheme" prepared by a board of thirteen free holders, in conformity with the provisions of the twentieth section of the ninth article of the constitution of the state of Missouri, and ratified at the election held for the ratification or rejection thereof, on the twenty-second day of August, eighteen hundred and seventy-six, shall continue to exercise the powers and duties prescribed by an act entitled "an act to provide a jury system in St. Louis county," approved March third, eighteen hundred and fifty-seven, and the acts supplementary thereto or amendatory thereof, including said "Scheme," and be entitled to the compensation therein provided until the first day of October, A. D. eighteen hundred and seventy-nine, from and after which date the said act and all amendments thereto, and all acts or parts of acts now in force regulating or providing for the summoning and selecting petit jurors in this state which are in conflict with the provisions of this act, shall be and are hereby repealed. (Laws 1879, p. 37, sec. 27.)

Sec. 167. Act to apply.—For the purpose of ascertaining to what cities in this state this act shall apply, the several courts of this state shall take judicial notice of the population of the cities thereof, respectively, as the same has been or may from time to time be ascertained and declared by authority of the United States or of the state of Missouri, or of any city in this state, as the result of any census or enumeration of the inhabitants thereof, made in virtue of any law or municipal ordinance directing such enumeration. (Laws 1879, p. 37, sec. 28; R. S. 1899, sec. 6565.)

Sec. 168. A special jury, how ordered.*

Sec. 169. Juror to serve only once a year.—No person shall be required to serve as a juror, either grand, petit or special, more than once in any year. (Laws 1885, p. 75; R. S. 1899, sec. 6567—7.)

Sec. 170. Grand jury, how selected.—In all cities of this state having a population of over three hundred thousand inhabitants, the grand jury shall be selected in the following manner, to-wit: The list of names of all persons liable to service as jurors shall be submitted to the judges of the circuit court in general term, who shall therefrom select the names of six hundred men, known or believed by them to be in every way fitted for grand jury service, said selection to be repeated whenever deemed necessary by said judges of the circuit court, which names shall, by said judges, be erased from the jury commissioner's list, but by them be deposited in a special grand jury wheel, which after being properly secured, shall be delivered to the care of the jury commissioner, who shall be responsible for the proper custody of the same, and which, after the names are once placed therein, shall be opened only by the said jury commissioner, and by him only in the presence of two or more of said circuit judges, upon the requisition of the judge of the criminal court for such number of grand jurors as may be required for any one term of said criminal court. (Laws 1881, p. 57, sec. 1; Amended Laws 1885, p. 73; R. S. 1899, sec. 6568.)

Sec. 171. Number to be drawn.—The number of names of grand jurors to be thus drawn from said grand jury wheel shall not be less than twenty-four for any one term of said criminal court, but may be increased by the judge of said court as special circumstances may require. From the names thus drawn, the judge of the criminal court shall select twelve grand jurors, who shall serve for the current term of said court, and the names of such persons that have been drawn, but not selected to serve by said judge, shall be returned to the grand jury wheel by the jury commissioner, in presence of one or more of said circuit judges, immediately after the close of the term for which they were drawn. (Laws 1881, p. 57, sec. 2; R. S. 1899, sec. 6569.)

Sec. 172. List delivered to clerk.—The list of six hundred names selected by the circuit judges, duly certified to by the clerk of the circuit court, shall be

*This section was R. S. 1899, sec. 6566, but is repealed by Session Laws 1907, p. 117. Therefore this section was held valid: *Eckrich vs. Transit Co.*, 176 Mo. 621; *State vs. Lehman*, 182 Mo. 424, 456. But it was in the City of St. Louis practically displaced by another act (see R. S. 1899, sec. 3791) relating to special juries, but the latter was repealed in 1905 (Session Laws 1905, p. 174), so that the section above (R. S. 1899, sec. 6566) was presumably applicable until the repeal in 1907, and such was the practice followed in the circuit court. As to the history of the two special jury acts, the manner of summoning, their validity, etc., see *State ex rel. vs. Withrow*, 133 Mo. 500; as to validity of the act, and that the provisions as to summoning juries is directory only, see *State vs. Jennings*, 98 Mo. 493. Where a cause is pending before one judge, application cannot be made to another judge for a special venire: *Haehl vs. Ry.*, 119 Mo. 325. R. S. 1899 sec. 6547 controls the right to challenge special jurors summoned under sec. 6566, and not sec. 6567: *Williams vs. Transit Co.* 100 S. W. 1072.

(2) See *Williamson vs. Transit Co.*, 100 S. W. 1072.

deposited with the clerk of the criminal court immediately after said names are drawn. (Laws 1881, p. 58, sec. 3; R. S. 1899, sec. 6570.)

ARTICLE VI.

JUSTICES OF THE PEACE AND CONSTABLES.*

Sec. 173. One justice and one constable to be elected in each district.—In all cities which now contain or may hereafter contain three hundred thousand inhabitants or more there shall be elected, on the general election day A. D. 1894, and every four years thereafter, one justice of the peace and one constable for each district in said cities, which districts shall be determined, fixed and located as hereinafter provided. (Laws 1891, p. 175, sec. 1; R. S. 1899, sec. 6508—*m*.)

Sec. 174. Number of districts.—For the first one hundred thousand of population in said cities there shall be five districts; and there shall be an additional district for every additional one hundred thousand, and for every fractional part of one hundred thousand exceeding fifty thousand of population. For the purpose of this act the last general census of the United States of America shall be taken as the basis of population. (Id., sec. 2; R. S. 1899, sec. 6509.)

Sec. 175. Office shall be kept, where—vacancy declared, when—how filled.—The justices elected under the provisions of the preceding section shall keep their offices and hold their courts within the districts for which they were respectively elected, which shall be designated in the commission; and such justices so elected or appointed shall exercise the powers and perform the duties throughout their township prescribed by law in relation to other justices of the peace; and whenever any such justice shall remove his office or place of holding his courts out of the district for which he was elected or appointed, he shall be deemed to have vacated his office, and he shall thereupon proceed as provided by law in case of removal from the township, and such vacancy may be filled as provided by law for filling such vacancies in other cases. (R. S. 1899, sec. 6510—*n*.)

Sec. 176. By whom districts to be established.—The judges of the probate court, criminal court, criminal court of correction and of the circuit court, or a majority thereof, in all such cities shall, six months prior to the general election of 1894, divide their respective cities into districts upon the basis of population as fixed by this act, and shall define and fix the metes and bounds of said districts, and each of said districts shall be entitled to one justice of the peace and one constable, to be elected as provided in this act. (Id., sec. 3; R. S. 1899, sec. 6511—*o*.)

Sec. 177. Report of judges to be filed—judicial notice of boundaries to be taken.—Such division shall be accurately and fully described in a report signed by said judges, or a majority thereof, which shall be filed in the office of the clerk of said circuit court, and a certified copy thereof shall forthwith be given to the mayor or other chief executive officer of said city, and a like certified copy to each of the justices elected under this act, which shall be open to inspection in the said justices' offices, and the said circuit court and all other courts exercising jurisdiction, civil or criminal, original or appellate, in or over said city, shall take judicial notice of the boundaries of said districts as defined in said report of said judges. (Id., sec. 4; R. S. 1899, sec. 6512.)

Sec. 178. Additional justices' courts.—In justice court districts, the business of which shall have exceeded two thousand two hundred cases in any successive twelve months, there shall be, and there is hereby established, two justice courts, to which there shall be elected in the manner provided for in said act, except as hereinafter provided, two justices of the peace and two constables, said justices having jurisdiction of causes as provided for in said act, and having the same powers and receiving the same salaries granted therein, and said con-

*See ordinances as to Justices of the Peace, etc.: R. C., sec. 1324-1328.

(*m*) This act held valid: State ex rel. vs. Higgins, 125 Mo. 364; Spaulding vs. Brady, 128 Mo. 653. Commissions to justices of the peace and constables issued by the mayor: Scheme, sec. 15. As to bonds of constables, and approval thereof, see *infra*, sec. 196. As to determination of who is elected, where there is a tie vote, see State ex inf. vs. Kramer, 150 Mo. 89. The act did not terminate the functions of the justices in St. Louis who held office, until the justices elected under the act qualified: Knight vs. Mersman, 66 Mo. App. 219. Ord. 10744 for elections of constables, held void in State ex rel. vs. McKee, 69 Mo. 504. See also as to election of justices in St. Louis, note to sec. 202 *infra*.

(*n*) Construe with reference to sec. 6513, R. S. 1899. (*infra* sec. 180). But this section, so far as supplying offices, etc., is concerned, is displaced by R. S. 1899, sec. 6535, (*infra* sec. 200) and the ordinances of the city provide for locating and providing suitable offices, and for expenses, record books, etc.: See ordinances R. C., sec. 1324-1328.

(*o*) Held valid. State ex rel. vs. Higgins, *supra*.

stables shall perform all the duties provided for in said act, and shall have all the powers granted therein, and shall give the same bond and receive the same salaries as provided therein. (Laws 1899, p. 268; R. S. 1899, sec. 6521.)

Sec. 179. **Governor to appoint.**—Within thirty days after section 6521 and 6522 shall take effect, it shall be the duty of the governor of the state to appoint and commission such additional justice and such additional constable for any district, and the same shall hold office until the next general election for justices and constables under said act. (Laws 1899, p. 268; R. S. 1899, sec. 6522.)

Sec. 180. **Laws applicable to townships, to apply to districts.**—All laws now or hereafter in force, concerning justices of the peace and constables, applicable to townships, shall be applicable to the districts of said justices and constables, as provided in this act, except where inconsistent with the other provisions hereof. (Laws 1891, p. 175; R. S. 1899, sec. 6513.)

Sec. 181. **Who eligible to office.**—No person shall be eligible to the office of justice of the peace who is not a citizen of the United States, and who shall not have been an inhabitant of this state and a resident of the city in which he is elected for twelve months next preceding his election. (Id., sec. 6; R. S. 1899, sec. 6514.)

Sec. 182. **Vacancies, how filled.**—When any vacancy shall occur in said offices, the said judges shall at once supply the same by the appointment of some person competent and qualified, who shall hold his office for and during the unexpired term of the justice or constable holding such office at the time such vacancy occurred, and until a successor be qualified. (Id., sec. 7; R. S. 1899, sec. 6515—p.)

Sec. 183. **Qualification, how made.**—Every person who receives a commission of election as justice of the peace or constable shall, within thirty days thereafter, and before entering upon the discharge of his duties, take the oath prescribed by the constitution of this state, and an oath that he will faithfully demean himself in office, and shall file his commission in the office of the clerk of the circuit court of said cities, together with the oath herein required indorsed thereon, to be recorded in the office of the clerk of the circuit court, which shall be deemed an acceptance of such election; and in case of his failure to do so, it shall be deemed a refusal thereof. (Id., sec. 8; R. S. 1899, sec. 6516.)

Sec. 184. **Jurisdiction—amount of.**—The said justices of the peace shall have original jurisdiction of all actions and proceedings for the recovery of money, whether such action be founded upon contract, tort or account, or upon a bond or undertaking given in any civil action or proceeding, or upon special tax-bills, or for a penalty of forfeiture given by any statute of this state, when the sum demanded, exclusive of interest and costs, does not exceed five hundred dollars. (Id., sec. 9; R. S. 1899, sec. 6517.)

Sec. 185. **Jurisdiction—territorial limits of.**—Every justice of the peace shall have jurisdiction co-extensive with the city in which he shall be elected, except in landlord and tenant cases, and in cases of forcible entry and detainer and of unlawful detainer, which shall be brought in the district where the property to be affected is situated: Provided, however, that such cases may be instituted before a justice of the peace in any district adjoining the district in which said property is situated, if the justice of the peace of the district in which said property is situated has failed, by reason of sickness, absence from the city or other cause, to hold court for five days next preceding the date of the filing of the statement or complaint in such suit; in such instances the justice of the peace of such adjoining district shall have jurisdiction of all such cases so instituted before him to the same extent as if said property were in his district; and a statement of the fact that the justice of the peace in the district where the property is situated has not held court for five days next preceding the date of the filing of the statement or complaint of such suit contained in the affidavit filed by the plaintiff therein, shall be prima facie proof of such fact. (Laws 1907, p. 116, amending R. S. 1899, sec. 6518.)

Sec. 186. **Jurisdiction in replevin, mechanics' liens, landlord and tenant suits, etc., and general powers.**—Such justices of the peace shall have jurisdiction for the recovery of specific personal property, when the value of the property sought to be recovered and the damages claimed for the taking or detention and for injuries thereto shall not exceed in the aggregate five hundred dollars; they shall have jurisdiction in all actions brought to enforce mechanics' liens, as provided by law for enforcing such liens in the circuit court, when the amount of balance claimed to be due does not exceed five hundred dollars; and in all suits between landlord and tenants for rents or possession of lands and tenements, when the amount of rent claimed shall not exceed five hundred dollars; and in all cases of unlawful or forcible entry or detainer, and shall have jurisdiction in attachment proceedings, and to enforce liens for keeping horses and other animals, to an

(p) Appointee holds until next election: State ex rel. vs. Spitz, 127 Mo. 248.

amount not in excess of five hundred dollars. They shall have all the powers and jurisdiction now conferred by law on justices of the peace, not inconsistent with the provisions of this act; and all existing provisions of law now applicable to justices of the peace and the practice and procedure in their courts shall be applicable in all respects to the justice elected under this act. (Id., sec. 11; R. S. 1899, sec. 6519.)

Sec. 187. Justices—salary of.—Each of said justices shall receive a salary of twenty-five hundred dollars per annum, payable monthly, to be paid out of the treasury of the city in which they are elected. (Id., sec. 12; R. S. 1899, sec. 6520—*q*.)

Sec. 188. Justice to appoint clerk—salary of.—Each justice of the peace shall appoint a clerk of such court, to hold office during the pleasure of said justice, with a salary of one hundred dollars per month, to be paid out of the treasury of the city in which such court shall be located, at the end of each month, as provided herein in respect to the salary of justices. (Id., sec. 13; R. S. 1899, sec. 6523.)

Sec. 189. Appointment of clerk to be in writing.—Such appointment shall be in writing signed by the justice, and shall be filed in the office of the clerk of the circuit court having jurisdiction in such city. The justice may at any time remove such clerk and appoint another in his stead. (Id., sec. 14; R. S. 1899, sec. 6524; Laws of 1897, sec. 1, p. 142, providing for appointment of deputy clerks repealed; Laws 1899, p. 268.)

Sec. 190. Clerk to give bond.—Every clerk, within ten days after his appointment, shall give bond to the state, with two good and sufficient securities, residents of the said city, in the penal sum of two thousand dollars, conditional that he will pay all money received by him by virtue of his office, and in every respect discharge all his duties as such clerk according to law. The said bond shall be approved as now provided by law in case of bonds of constables; and all other provisions of law, relating to requirement of new bond, discharge of sureties on old bond, and suits on bonds, and summary proceedings in case of constables and their sureties, shall be applicable to said clerks and their sureties in like manner. (Id., sec. 15; R. S. 1899, sec. 6525.)

Sec. 191. Clerk to receive fees—disposition of.—All fees and costs collected in said courts not paid to or collected by the constables or their deputies, shall be paid to and received by said clerks, and in no instance paid to or received by said justices; said clerk shall pay over all said fees collected for services of the justice to the treasurer of said city every thirty days, accompanied by a statement thereof, sworn to by them, and all other costs collected by said clerk shall be paid by them every thirty days, accompanied by a like sworn statement, to the constables of the respective districts, who shall be responsible for the same, and pay over the same to the parties entitled thereto, as now required by law in case of costs collected by or paid to said constables. (Id., sec. 16; R. S. 1899, sec. 6526—*r*.)

Sec. 192. Clerks to keep books of account.—The clerks of said justices of the peace shall keep accurate books in which shall be entered full, complete itemized accounts of all fees and costs taxed or collected in said courts by said clerks, which books shall at all times be open for inspection by the treasurer of such city, or any agent appointed by such city for that purpose, and shall perform all clerical and ministerial duties now imposed by law on justices of the peace. (Id., sec. 17; R. S. 1899, sec. 6527—*s*.)

Sec. 193. Constables to keep books of account and pay over fees.—The constables elected under this act shall keep accurate books, in which shall be entered full, complete itemized accounts of all costs and fees, commissions and emoluments collected by them, and shall pay over all such fees as are provided by law for services of constables, collected by them, to the treasurer of such city every thirty days, accompanied by a statement thereof, sworn to by them, and all such books shall be at all times open for inspection by the clerk of said court, or by the treasurer of said city, or any agent appointed for that purpose, or by any one having any cause in said court, or by his agent or attorney. (Id., sec. 18; R. S. 1899, sec. 6528.)

Sec. 194. Penalty and procedure in case of failure to account.—If any constable or clerk fail to make and file such statement with said city treasurer as above required, the justice of the district shall issue a citation to such constable or clerk requiring him to make and file such statement on or before a day to be named

(*q*) See Note below.

(*r*) The provision that in St. Louis the fees be paid into the treasury and the justice receive a salary is constitutional: *Spaulding vs. Brady*, 128 Mo. 653. But for services not of a judicial nature, such as solemnizing marriages, the justice is entitled to retain the fees: *St. Louis vs. Sommers*, 148 Mo. 398.

(*s*) As to duty and rights of city officials respecting record books, expenses, etc., see Rev. Code, secs. 1325-1327.

in such citation, and such citation may be served upon such constable or clerk in order; and if such constable or clerk after service of such citation fail to make and compel the attendance of such constable or clerk, and if necessary, commit him to jail until he make and file such statement. (Id., sec. 19; R. S. 1899, sec. 6529.) file such statement, as required by such justice, the justice may, by attachment,

Sec. 195. City may sue.—Any such city may sue for and recover all sums of money payable into the treasury thereof by a constable or clerk, and the constable or clerk and his sureties on his official bond shall be liable therefor. (Id., sec. 20; R. S. 1899, sec. 6530.)

Sec. 196. Constables to give bond.—The constables of such court shall, within thirty days after their appointment, and before entering on the discharge of their duties, give bond to the state as now required and directed by law, and shall have and exercise the same authority as is now held and exercised by constables of courts of justices of the peace, and shall perform the same duties and be subjected to the same liabilities and responsibilities which now attach to the office of constable, and all provisions of law now applicable to constables shall be applicable to said constables hereinunder appointed, except where inconsistent with the provisions of this article. (Id., sec. 21; R. S. 1899, sec. 6531—*t.*)

Sec. 197. Constables—salary and commission.—The constables elected under this article shall receive a salary of one hundred and fifty dollars per month, payable at the end of each month out of the treasury of such city, as provided in case of justices and clerks, and it shall be the duty of the municipal assembly of said city to appropriate the money necessary for the payment of such salaries of justices, clerks and constables, the same as salaries of city officers are provided for. Said constables shall be entitled to receive not exceeding two and one-half per cent commissions upon all collections made. (Id., sec. 22; R. S. 1899, sec. 6532.)

Sec. 198. Deputies—constable.—Every constable shall have power to appoint deputies not to exceed two in number, for whose conduct he shall be answerable, and such appointments shall be in writing, and said appointments shall be filed in the office of the clerk of the circuit court having jurisdiction in such city. (Id., sec. 23; Amended Laws 1899, sec. 1, p. 269; R. S. 1899, sec. 6533.)

Sec. 199. Deputies—salary of.—Such deputies shall receive a salary of seventy-five dollars per month, to be paid out of the treasury of the city, in like manner as provided herein in case of constables. They may be removed at the pleasure of the constable appointing them, or his successor in office, and in case of vacancy in such office of deputy constables, the constable may fill such vacancy, with the approval of the justice, as in case of original appointment. (Id., sec. 24; R. S. 1899, sec. 6534.)

Sec. 200. Offices for justices to be provided.—The municipal assembly of said city shall provide proper rooms and offices for said justices' courts, and their clerks and constables in their respective districts, and for the proper care of the same, and shall provide heat, light, proper books of account, dockets and printed forms of writs, and stationery, and whatsoever else may be necessary for the proper conduct of the business of such courts. (Id., sec. 25; R. S. 1899, sec. 6535—*u.*)

Sec. 201. Repealing clause.—All acts or parts of acts inconsistent with this act are hereby repealed. (Id., sec. 26.)

Sec. 202. City register to perform duties of clerk—mayor those of county court, except in cases of tie.—In said city of St. Louis, the duties and services required by chapter 9 of Rev. Stat. 1899 (relating to constables) of the county clerk shall be performed by the register of said city, and those required to be performed by the county court shall be performed by the mayor of said city, except in case of a tie or contested election, which shall be tried in the circuit court; and, so far as applicable, said city shall be considered as a county; and likewise a district in said city shall be held to be the same as a township in said chapter. (Rev. Stat. 1899, sec. 6536—*v.*)

Sec. 203.—Qualifications of jurors in justices' courts.—In any cause pending before a justice of the peace in cities which now have or may hereafter have a population of 300,000 inhabitants or more, no person shall be eligible to sit as a juror unless he has the same qualifications as prescribed for jurors in the circuit court of such cities, and no person shall be permitted to serve as a juror in such cities before any justice of the peace more than once each year. (Laws 1895, sec. 1, p. 202; R. S. 1899, sec. 6537.)

Sec. 204. Clerks of court to record names of jurors.—It shall be the duty of the clerk in each court of a justice of the peace in such cities to record in a

(*t.*) The mayor approves the constable's bond: Scheme, sec. 15; also Rev. Code, secs. 1506 and 1678.

(*u.*) See as to such ordinances, Rev. C., secs. 1324-1328.

(*v.*) This section held void, so far as to deciding tie election, as unconstitutional, in *State ex inf. vs. Kramer*, 150 Mo. 89.

book suitably headed and ruled, the name of each juror serving in such court, arranged under the proper letter of the alphabet, together with the number and street of his residence and the date of his service. (Laws 1895, sec. 2, p. 202; R. S. 1899, sec. 6538.)

ARTICLE VII.

JUVENILE COURTS.*

Sec. 205. Application of act—construction of terms.—This act shall apply only to children under the age of sixteen years, not now or hereafter inmates of any state institution, or any training school for boys, or industrial school for girls, or any institution incorporated under the laws of this state: Provided, that when jurisdiction has been acquired under the provisions hereof over the person of a child, such jurisdiction shall continue for the purposes of this act until the child shall have attained its majority. For the purpose of this act the words "neglected child" shall mean any child under the age of sixteen years who is destitute or homeless, or abandoned, or dependent upon the public for support, or who habitually begs or receives alms, is found in any house of ill-fame, or with any vicious or disreputable person, or who is suffering from the cruelty or depravity of its parents, or other person in whose care it may be. The words "delinquent child" shall include any child under the age of sixteen years who violates any law of this state, or any city ordinance. The word "child" or "children" may mean one or more children, and the word "parent" or "parents" may be held to mean one or both parents, when consistent with the intent of this act. The word "association" shall include any corporation which includes in its purposes the care or discipline of children coming within the meaning of this act. (Laws 1903, p. 213, sec. 1.)

Sec. 206. Jurisdiction of courts.—The circuit courts exercising jurisdiction in counties having a population of 150,000 inhabitants and over in this state, shall have original jurisdiction of all cases coming within the terms of this act. The city of St. Louis shall be deemed to be a county within the meaning of this act. (Ib., sec. 2—*w.*)

Sec. 207. Juvenile court room—Procedure.—In said counties the judges of the circuit court shall, from time to time, designate one of their number, whose duty it shall be to hear and determine for such time as said judges shall designate, all cases coming under this act. A court room to be designated the "Juvenile Court Room" shall be provided or assigned for the hearing of such cases, and the proceedings of the court in such cases shall be entered in a book or books to be kept for that purpose, and known as the Juvenile Record, and the court may for convenience be called the Juvenile Court. The practice and procedure prescribed by law for the conduct of criminal cases so far as same may be applicable and when not herein otherwise provided, shall govern all proceedings under this act. In all trials under this act any person interested therein may demand a trial by jury. (Ib., sec. c—*x.*)

Sec. 208. Who may file petition—affidavit.—Any reputable person, being a resident in the county, having knowledge or information of a child in the county who appears to be a neglected child, may file with the clerk of the Juvenile Court, a petition in writing setting forth the facts, verified by affidavit. It shall be sufficient that the affidavit be upon information and belief. (Laws 1903, p. 214, sec. 4.)

Sec. 209. Summons—hearing—disposition of child.—Upon the filing of the petition, unless the parties shall voluntarily appear or be in court, a summons shall issue in the name of the state of Missouri requiring the child and the person having custody or control of the child, or with whom the child may be, to appear with the child, at the place and at the time set in the summons, which shall not be later than twenty-four hours after service, unless otherwise directed by the court or judge. The parents of the child, if living, and their residences known, or its legal guardian, or if his or her residence is unknown, then some relative, if there be one, and his or her residence is known, shall be notified of the proceedings, and in any case the court may appoint some suitable person or association to act in behalf of the child. If the person summoned, as herein provided, shall

*This act was held valid in *Ex Parte Loving*, 178 Mo. 194, as against several constitutional objections.

For the ordinance providing the building for the Juvenile Court, the operation of that court, and the offices created in connection therewith, see ord. 22540, approved July 12, 1906, set out in appendix to the Revised Code.

(*w.*) The amendment in 1905 (acts 1905, p. 56) repeals the act and substitutes a new one, in so far as cities between 150,000 and 500,000 are concerned, so that the act of 1903 now applies, in effect, to the City of St. Louis alone. But that does not invalidate the act, within the reasoning in *Ex Parte Loving*, supra (178 Mo. 194).

(*x.*) See *State ex rel. vs. Wilder*, 197 Mo. 27.

fail without reasonable cause to appear and abide the order of the court, or to bring the child, such person may be proceeded against, as in case of contempt of court. If it shall appear to the satisfaction of the court that there is no person in charge or care of the child, the court may order the sheriff to take control of the child and bring him into court. On the return of the summons, or other process, or as soon thereafter as may be, the court shall proceed to hear the case in a summary manner, and if it shall determine that the child is a "neglected child" within the definition thereof contain herein, shall enter its order or judgment accordingly under the provisions of this act; and the cost of the proceedings may, in the discretion of the court, be adjudged against the petitioner or any person or persons so summoned, or appearing, as the case may be, and collected as provided by law in civil cases. All costs not so collected shall be paid by the county. Pending the disposition of any case, the child may be retained in the custody of the person having charge of the same, or may be kept in some suitable place provided by the county authorities, or by any association having for one of its objects the care of delinquent or neglected children, or in such other custody as the judge may direct. (Ib., sec. 5.)

Sec. 210. Probation officer—duty.—The circuit court shall appoint, or designate, a discreet person of good character, to serve as probation officer during the pleasure of the court. Whenever there is to be a child brought before the Juvenile Court, it shall be the duty of the clerk of the court, if practicable, to notify the said probation officer in advance of the time when any child is to be brought before the court. It shall be the duty of the said probation officer to make such investigation of such child as may be required by the court, to be present in court in order to represent the interests of the child when the case is heard, and to furnish to the court such information and assistance as the judge may require, and to take charge of any child before and after trial, as may be directed by the court; and the court shall have power to make and enforce rules specifying the duties of probation officers in any and all cases. (Laws 1903, p. 214, sec. 6.)

Sec. 211. Neglected child.—When any child under the age of sixteen years shall be found to be neglected within the meaning of this act, the Juvenile Court may make an order committing the child, under such conditions as it may prescribe, to the care of some reputable person of good moral character, or to the care of some association willing to receive it, embracing in its object the purpose of caring for neglected children. (Laws 1903, p. 215, sec. 7.)

Sec. 212. Children arrested taken before juvenile court.—When in any such county, a child under the age of sixteen years is arrested with or without warrant, such child shall, instead of being taken for trial before a justice of the peace, or police magistrate, or judge of any other court, now or hereafter having jurisdiction of the offense charged, be taken directly before such Juvenile Court; or if the child shall have been taken before a justice of the peace or police magistrate, or judge of such other court, it shall be the duty of said justice of the peace or police magistrate, or judge of such other court, to transfer the case to such Juvenile Court, and of the officer having the child in charge to take such child before said court, and the said court shall proceed to hear the case in accordance with the law, in trials of such offenses. In place of a warrant for the arrest of any child under said age, a summons may issue as provided in section 5 [209 supra] of this act with respect to neglected children. (Ib., sec. 8—y.)

Sec. 213. Punishment discretionary.—All punishments and penalties imposed by law upon persons for the commission of offenses, shall in the case of the said delinquent children rest in the discretion of the judge of the Juvenile Court, and execution of any sentence may be suspended or remitted in his discretion. (Ib., sec. 9.)

Sec. 214. No jail sentence nor confinement with convicts.—In all cases when practicable the court shall require notice to be given and investigation to be made, as in the several cases under this act provided for, and may adjourn the hearing from time to time for the purpose. The court shall not commit a child under sixteen years of age to a jail or police station, but if said child is unable to give bail, it may be committed to the care of the sheriff, police officer or probation officer who shall, unless otherwise ordered by the court, keep such child in a suitable place, which shall be provided by the county, outside of the inclosures of any jail or police station, or such child may be committed to the care of any association willing to receive it, having for one of its objects the care of neglected children. When any delinquent child shall be sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in the same building with such adult convicts, or to bring such child into any yard or building in which adult convicts may be present, or to permit any contact or intercourse whatever between such child and such adults. The judge

of the Juvenile Court may make in vacation any order for the temporary care of any child or children coming within the provisions of this act. (Ib., sec. 10.)

Sec. 215. Deputy probationary officers—duty of prosecuting attorneys—of police—probation officer's power.—In each county in this state having a Juvenile court and probation officer appointed as hereinbefore provided, the said probation officer shall have the power and authority to appoint one or more deputy probation officers subject to the approval of the judges of the circuit court. Said deputies shall hold office during the pleasure of the said court. Women shall not be disqualified from holding the position of deputy probation officers.

It shall be the duty of all circuit, prosecuting and city attorneys representing the state or city in any court held in the counties aforesaid, to give to the probation officers such aid in the performance of their duties as may be consistent with the duties of the office of such attorneys.

It shall be the duty of all police officers and constables making arrest of children under sixteen years of age in the counties aforesaid, to at once give information of that fact to the probation officer, or one of his deputies, and also to furnish such probation officer with all facts in their possession pertaining to said child, its parents, guardian, or other person interested in such child, and also of the nature of the charge upon which such arrests has been made.

Any probation officer may, without warrant or other process, at any time until final disposition of the case of any child over whom said Juvenile Court shall have acquired jurisdiction, take any child placed in his care by said court, and bring such child before the court, or the court may issue a warrant for the arrest of any such child; and the court may thereupon proceed to make any lawful disposition of the case. (Ib., sec. 11.)

Sec. 216. Salary of probation officer and deputies.—The said probation officer shall receive a salary of one thousand dollars (\$1,000) per annum, payable monthly out of the funds of said county. Every assistant probation officer shall receive such salary or compensation as may be decided by the judges of the circuit court, not exceeding in any case the sum of eight hundred (800) dollars per annum, payable in like manner out of the funds of said county. Actual disbursements for necessary expenses made by probation officers while in the performance of their duties shall be reimbursed to them out of the funds of said county, after approval by the judges of the circuit court: Provided, that no officer shall be allowed for such disbursement a greater sum than one hundred dollars in any one year. (Ib., sec. 12, p. 216.)

Sec. 217. Power of court in final disposition of child.—In the case of a delinquent child, the court may suspend the sentence or execution thereof, from time to time, and may in the meantime commit the child to the care and control of a probation officer, duly appointed by the court, and may allow such child to remain in its home, subject to the visitation and control of the probation officer, such child to report to the probation officer as often as may be required, and to be subject to be returned to the court for further proceedings whenever such action may appear to the court to be necessary; or the court may authorize the child to be placed in a suitable family home, subject to the friendly supervision of a probation officer, and the further order of the court, or it may authorize the child to be boarded out in some suitable family home, in case provision is made by voluntary contribution, or otherwise, for payment of the board of such child, until suitable provision may be made for the child in a home without such payment; or the court may commit the child to a suitable institution for the care of children. (Ib., sec. 13.)

Sec. 218. Child a ward—subject to order court.—In any case where the court shall commit a child to the care of any association or individual, in accordance with the provisions of this act, the child shall, unless otherwise ordered, become a ward, and be subject to the control of the association or individual, to whose care it is committed; and subject to the order of the court. (Ib., sec. 14.)

Sec. 219. Associations—when awarded custody—report—removal.—The judge of the Juvenile Court may secure such information from any association desiring to have children committed to its care under the provisions of this act, as said judge may deem necessary, to enable him to exercise a wise discretion in dealing with such children. Every such association shall file with the state board of charities and corrections an annual report, respecting the children cared for during the year, under the provision of this act; the number received, the number placed in homes, the number that have died, and the number returned to parents or friends. The court shall have power to withdraw any child sent to any institution or association or person at any time, and to make other provision therefor. (Ib., sec. 15.)

Sec. 220. Religious affiliations to be respected.—The Juvenile Court, in committing children, shall place them as far as practicable, in the care and custody of some individual holding the same religious belief as the parents of

such child, or with an association controlled by persons of like religious faith as the said parents. (Ib., p. 217, sec. 16.)

Sec. 221. **Appeal.**—An appeal shall be allowed to the child from any final order of commitment made under the provisions of this act and from any modification of such order and may be demanded on the part of the child by its guardian, by either parent, by its previous custodian or by any person within the fourth degree of kindred of such child: Provided, however, that such appeal shall be taken at the same term of the court at which the order is made, and such appeal shall act as a supersedeas if a bond with sufficient sureties shall be given in a penal sum not exceeding five hundred dollars, payable to the state of Missouri and conditioned that when so ordered by the court the child shall be surrendered to abide such judgment or order as may be rendered or made by the appellate court; but the trial court or the appellate court may in its discretion by an order modify or dispense with such bond; in which case the allowance of the appeal shall act as a supersedeas on compliance with the order so made. (Ib., sec. 17.)

Sec. 222. **Act not to affect certain institutions.**—Nothing in this act shall be construed to repeal any portion of the law relating to the Industrial Home for Girls, or the Reform School for Boys, and in all commitments to either of said institutions, the law in reference to said institutions shall govern the same. (Ib., sec. 18.)

Sec. 223. **Compulsion of parent to support child.**—In any case in which the Juvenile Court shall find a child neglected, or delinquent, it may, in the same or subsequent proceeding, upon the parents of said child or either of them being duly summoned, or voluntarily appearing, proceed to inquire into the ability of said parent or parents to support the child, or contribute to its support, and if the court shall find that such parent or parents are able to support the child or contribute thereto, the court may enter an order or decree requiring said parent or parents to support such child or contribute thereto, and may enforce the same by execution. (Ib., sec. 19.)

Sec. 224. **Act of 1901 relating to juvenile delinquents repealed.**—The act entitled "An act to establish a probation system for juvenile delinquents in certain cities," approved March 26, 1901, is hereby repealed. (Ib., sec. 20.)

Sec. 225. **Emergency.**—No adequate provision for the care of neglected or delinquent children existing in counties having a population of 150,000 inhabitants and over, in this state, there is created an emergency within the meaning of the constitution; therefore, this act shall take effect and be in force from and after its passage. (Ib., sec. 21.)

Sec. 226. **Inconsistent acts repealed.**—All acts or parts of acts in conflict with this act, or inconsistent herewith, are hereby repealed. (Ib., sec. 22.)

CHAPTER FIVE A.

CRIMES.

Sec. 226a. **Offering property for sale without written authority.**—In cities of three hundred thousand inhabitants or more, any person who shall offer for sale any real property without the written authority of the owner of such property, or of his attorney-in-fact, appointed in writing, or of a person who has made a written contract for the purchase of said property, with the owner thereof, shall be deemed guilty of a misdemeanor and fined in a sum of not less than ten dollars nor more than three hundred dollars. (Laws 1903, p. 161, sec. 1—z.)

Sec. 226b. **Application for loans without written authority.**—In cities of three hundred thousand inhabitants or more, any person who shall make application to any other person, or to any corporation, for a loan upon any real property without the written authority of the owner of such real property, or of his attorney-in-fact, appointed in writing or of any person who has made a written contract for the purchase of such property with the owner thereof, shall be deemed guilty of a misdemeanor and fined in a sum not less than ten dollars nor more than three hundred dollars. (Ib., sec. 2.)

CHAPTER SIX.

DAMAGE SUITS AGAINST CITIES.

Sec. 227. **In suits against city for damages plaintiff may be required to join as co-defendant person or corporation liable to an action on same account by city.**—Whenever a city of over one hundred and fifty thousand inhabitants shall be

(z) Section construed in *Mercantile Trust Co. vs. Niggeman*, 119 Mo. App. 56, as to validity of contract.

sued in any court in this state and the cause of action on account of which said city is sued shall arise from the wrongful or unauthorized acts or carelessness and negligence of any person or corporation subject to service in this state, and such wrongful or unauthorized acts or carelessness and negligence shall also make such person or corporation liable to an action by the plaintiff on the same account as such city is sued for, such city may, within fifteen days after the first day of the next term of court after the service of the writ of summons, file a motion, in writing, in said case, notifying the plaintiff therein to make such person or corporation a party defendant in said suit in accordance with the facts constituting the liability of such person or corporation, which facts said city shall set forth in said notice, and shall verify the same by affidavit. The plaintiff in said suit shall then proceed to join such person or corporation as a party defendant in said suit, in accordance with the facts set forth in said notice, and such suit shall not be prosecuted against said city until such person or corporation is made a co-defendant with such city: Provided, however, that in case the facts set forth in said notice do not make such person or corporation named therein liable to an action on the same account as such city is sued for in such case, said plaintiff may file a motion to strike out said notice, and if said motion shall be sustained by the court, then the plaintiff in such case may proceed against defendant city alone, as if said notice had not been filed; and provided further, that if the plaintiff shall make such person or corporation as may be named in said notice a party defendant in said suit and shall have caused summons to be issued for such person or corporation, and such person or corporation cannot be served with process by the officer to whom such writ is directed, then the plaintiff in such case may proceed against the city alone. (Laws 1901, pp. 78, 79—a.)

CHAPTER SEVEN.

DENTISTRY.*

Sec. 228. **Duty of register in St. Louis.**—Whenever in article 3 of Chap. 128 of Rev. Stat. of 1899 entitled "Dentistry," it is provided that any duty or service shall be performed by any county clerk, such duty and service in the city of St. Louis shall be performed by the city register of the city of St. Louis as if said officer was especially named to perform these duties and services, and said register shall receive the same compensation therefor as this article provides shall be paid to county clerks; provided, further that whenever in this article the word "county" is used it shall include the city of St. Louis the same as if said city were especially named. (Laws 1905, p. 217, sec. 8535.)

CHAPTER EIGHT.

DRAMSHOPS—EXCISE COMMISSIONER.**

Sec. 229. In all cities in this state, which now have, or may hereafter have a population of 300,000 inhabitants or more, there is hereby created the office of excise commissioner, who shall have exclusive authority to grant dramshop licenses; and such commissioner shall be appointed by and hold his office during the pleasure of the Governor. The excise commissioner must be a bona fide resident of the city where appointed for a period of not less than two years previous to his appointment and shall be confirmed by the Senate. (Laws 1905, p. 141, amend. R. S. 1899, sec. 3019.)

Sec. 230. **Applications, how made.**—Any person desiring a dramshop license shall present a petition to the excise commissioner, as required by the laws of this State, and if the petition is signed by the requisite number of petitioners, and the applicant is a person of good moral character, the commissioner shall give to the

(a) This statute was enacted to counteract, so far as might be, the effect of the decision in *Badgley vs. St. Louis*, 149 Mo. 122, holding void the charter provision, Art. XVI, sec. 9.

The statute was made the basis of a motion to dismiss an appeal in the case of *Baker vs. St. Louis*, 189 Mo. 375.

*Laws 1905, pages 213-217, repealing R. S. 1899, secs. 8525-8536, relating to "Dentistry," and enact new sections in lieu thereof.

**The State law now in force largely if not entirely supersedes the city ordinances on the subject. See comments and notations to ordinance regulations concerning dramshops in Rev. Code, Chap. 31, Art. IV and notes to sections 2150 to 2164.

applicant a statement in writing, that upon the payment of the license tax required by law, a dramshop license will be issued to such applicant. (R. S. 1899, sec. 3020—b.)

Sec. 231. Condition on which license may be issued or revoked.—Upon receiving the statement mentioned in the preceding section of this article, the applicant for dramshop license shall pay to the city collector the amount fixed by law as necessary to secure dramshop license, taking therefor duplicate receipts, one of which shall be filed with the city treasurer, and the other shall be filed with the excise commissioner, who shall then issue dramshop license to the applicant for the period provided by law; and the commissioner shall have authority to revoke any license by him granted, if the dramshop-keeper to whom license has been issued shall violate any of the provisions of the laws of this state governing dramshops. (R. S. 1899, sec. 3021—c.)

Sec. 232. Commissioner to keep record of licenses and preserve petitions.—The excise commissioner shall keep a record in which shall be recorded the names of all applicants for dramshop license, the place at which the applicant is permitted to conduct the business of dramshop-keeper, the date of the issuance of such license, and shall preserve in his office all petitions for dramshop license, and remonstrances against the granting of dramshop license; all of which shall be a public record, and open to the inspection of any citizen who desires to inspect the same. (R. S. 1899, sec. 3022—d.)

Sec. 233. President board police commissioners to be notified.—Whenever the excise commissioner shall grant a dramshop license, he shall notify the president of the board of police commissioners, giving the name of the person to whom the license is issued, the date of the license, and the place at which the business of keeping a dramshop is authorized to be conducted. (R. S. 1899, sec. 3023.)

Sec. 234. License to keep dramshop, refused or revoked, when.—No license shall be granted to any person to keep a dramshop who shall carry on the business of dramshop-keeper after the expiration of the license previously issued or without having received a license for such purpose or whose license shall have been revoked for violating any of the provisions of law governing dramshop keepers. No license shall be granted to any person to keep a dramshop in any house or building used for the purpose of prostitution or as a house of assignation or ill-fame or gambling house. If after a dramshop license is granted the building in which the dramshop is located shall be used for the above mentioned purposes, or any of them, then the license granted shall be revoked by the excise commissioner. (Laws 1901, p. 143, amend. R. S. 1899, sec. 3024.)

Sec. 235. Duty of police.—It shall be the duty of the police authorities to prevent any person carrying on the business of dramshop-keeper without having a license for that purpose. (R. S. 1899, sec. 3025.)

(b) The 8th section of the act of 1891 (R. S. 1899, sec. 2997) applies to the City of St. Louis as to the manner of issuing licenses; separate licenses are issued for state and city: *State ex rel vs. Bell*, 119 Mo. 70, 72, 74; *State ex rel vs. Higgins*, 71 Mo. App. 180, 183, 184. Formerly the collector performed same functions as county courts, and application for license required petition signed by majority of tax payers in the block: *State ex rel vs. Hudson*, 13 Mo. App. 61; see also as to the authority of the collector under the old law: *State ex rel vs. Rosenblatt*, 9 Mo. App. 587. Application for license to the excise commissioner in St. Louis is governed by the statute (R. S. 1899, sec. 2997), and required to be supported by the proper petition as there required, and the act of 1901 (since repealed and amended: Laws 1905, p. 141) which provided that the petition for a license should be on file in the office of the clerk of the county court for not less than ten days, applied in St. Louis to the office of excise commissioner, and where it appears that such petition was not on file that length of time a license granted thereunder was void; the commissioner acquires jurisdiction where the petition recites that the petitioners are a majority of the assessed tax-paying citizens and guardians of minors, owning property in the block; his findings of fact are conclusive; the facts are in general to appear in his records and the proper method of review is usually by certiorari, not by equitable bill: *Cooper vs. Hunt*, 103 Mo. App. 9. All jurisdictional facts must appear on the face of the proceedings: see cases cited in *State ex rel vs. Seibert*, 97 Mo. 212, 218, also holding that the application for license need not be sworn to.

The excise commissioner has no authority to issue a license beyond the period asked for in the petition and if he does the license is void; the dramshop act contemplates that after the petition has been on file in the office of the excise commissioner for ten days is shall be presently acted upon by him and that a license shall be granted or refused; if granted it should be for six months, at which time applicant may have the license renewed for another term of six months on the petition; at the expiration of the second license the life of the petition expires and if the licensee desires to continue he must go back to the tax payers and get a new petition from them: *State ex rel vs. Mulvihill*, 113 Mo. App. 324, 328.

(c) The revocation of a permit or license by the excise commissioner is not of a judicial nature, and is not reviewable by the courts: *Higgins vs. Talty*, 157 Mo. 280 (revocation for keeping disorderly house); *State vs. Seibold*, 192 Mo. 720, (discussing right of revocation for selling liquor on Sunday, independently of any conviction therefor, and denying the right of a dramshop keeper to question the validity of the statute in such a proceeding.)

(d) *Cooper vs. Hunt*, 103 Mo. App. 9, 15.

Sec. 236. Fees—Powers—Duties—Compensation.—The person to whom a dramshop license shall be issued shall pay the excise commissioner a fee of three dollars for each state license and a fee of three dollars for each city license, for granting and issuing the same, and said excise commissioner shall charge, collect and receive a further sum of three dollars for taking acknowledgments to each petition filed, acknowledgment to bond, filing petition and bond, administering oaths, and all other acts of said commissioner of like character necessary to perfecting the petitions and papers before the license is issued and the said excise commissioner shall perform all these services and acts, and for that purpose the said excise commissioner is hereby granted and given the power to administer oaths, to take acknowledgment to all papers and instruments filed in his office and to possess the same powers for that purpose as are now given by the statute law of the state of Missouri to justices of the peace. All fees and charges so collected shall be paid over to the treasurer of the state of Missouri to be placed to the credit of the general revenue fund of the state. Said excise commissioner shall take a receipt therefor from the treasurer, the original he shall file with the state auditor and the duplicate thereof he shall file in his own office as a part of the records thereof. The said excise commissioner shall make said payments to the state treasurer on the first Monday of each and every month, and shall at the time of making said payments to the treasurer, file with the state auditor a full, complete and sworn statement of all of the fees collected by him as herein directed, during the preceding month and since his last statement and also stating the total number of state and city licenses issued and granted, the name of the person to whom issued, date when issued, date of expiration and amount of ad valorem tax paid on each. Said excise commissioner shall receive the sum of five thousand dollars per annum, payable monthly out of the state treasury, as and for full compensation, salary and services, as such excise commissioner, and a further sum of four thousand dollars per annum or so much thereof as is necessary, out of which he shall pay all clerical help and expenses of whatever character in the conduct and management of the business of his office, payable monthly out of the state treasury, when properly certified by said excise commissioner. (Laws 1905, p. 141, amending R. S. 1899, sec. 3026—e.)

CHAPTER NINE.

ELECTION AND REGISTRATION.

Art. I. Miscellaneous Provisions.

Art. II. Board of election commissioners created—registration and conduct of elections.

Art. III. Primary Elections not covered by act of 1907.

Art. IV. Primary Elections in General.

ARTICLE I.

MISCELLANEOUS PROVISIONS.*

Sec. 237. Election of state officers.—On the first Tuesday after the first Monday in November in the year 1880, and every four years thereafter, there shall be an election held in each township in this state and in each ward of the city of St. Louis for the election of governor, lieutenant-governor, secretary of state, state auditor, state treasurer and attorney-general, who shall hold their offices for the term of four years after the second Monday in January next after their election and until their successors are elected and qualified. (R. S. 1899, sec. 6981.)

Sec. 238. Election of other officials, etc.—On the first Tuesday after the first Monday in November, in the year 1880, and every two years thereafter, there shall be an election held in each township in this state, and in each ward of the city of St. Louis, for the election of a member of congress from each congressional district, of senators and representatives in those districts and judges of the county courts in those counties where the term of those elected has expired, and for sheriffs and coroners, and such other officers as may be required by law to be elected at such elections. (R. S. 1899, sec. 6982.)

Sec. 239. Elections in St. Louis conducted, how.—All elections in the city of St. Louis shall be conducted in all respects as provided by the laws now in force regulating elections in said city. (R. S. 1899, sec. 7005.)

Sec. 240. Certain contests in St. Louis.—All contested elections for judge of the criminal or probate court of St. Louis city shall be heard and determined by the circuit court of that city. (R. S. 1899, sec. 7067.)

(e) See State ex rel. vs. Bell *supra*.

*As to elections of justices of the peace and constables, see Chapter V, Art. VI, secs. 173 and 202 note.

Sec. 241. Proceedings, how conducted.—All proceedings for contesting elections, as provided for in the preceding section shall be conducted in all respects as provided for contesting elections of judges of circuit judges. (R. S. 1899, sec. 7068.)

Sec. 242. Circuit attorney or assistant circuit attorney, contests, where heard.—If any election of any circuit attorney or assistant circuit attorney be contested, such contest shall be heard and determined by the circuit court of the county or city wherein either contestant or contestee resides. (R. S. 1899, sec. 7069.)

Sec. 243. Proceedings in such cases.—All proceedings for contesting elections of circuit attorney, or assistant circuit attorney, shall be conducted in all respects as provided for contesting elections of judges of circuit courts. (R. S. 1899, sec. 7070—*f.*)

Sec. 244. Provisions to apply to St. Louis city, except.—Except as otherwise provided by law, the provisions of this chapter shall be applicable to the city of St. Louis the same as to counties, and the duties imposed on officers in counties shall likewise be imposed on the corresponding officers of said city. (R. S. 1899, sec. 7070—*g.*)

ARTICLE II.

BOARD OF ELECTION COMMISSIONERS CREATED—REGISTRATION AND CONDUCT OF ELECTIONS.*

REGISTRATIONS AND ELECTIONS IN CITY OF ST. LOUIS—LAWS 1903. PAGES 170-193.

(Repeals Art. VIII, Chap. 102, R. S. 1899, and amendatory acts.)

Sec. 245. Registration of voters.—In all cities of this state now having or which hereafter may have three hundred thousand inhabitants or more, there shall be a registration of all the qualified voters, and said registration and the mode of conducting the elections held in such cities shall be governed and controlled as provided herein, and be subject to all the provisions of the other election laws of this state, so far as the same are not inconsistent or in conflict herewith. (Laws 1903, p. 171, sec. 1.)

Sec. 246. Board of election commissioners created—how and by whom appointed—vacancies, how filled—duties of governor—qualifications and duties of commissioners.—There is hereby created a board of election commissioners for each city governed by the provisions of this article, composed of three members, who shall be appointed as follows: Within thirty days after this article becomes a law, the governor, by and with the advice and consent of the senate, shall appoint for each of such cities three members, who shall hold their office until January 15th, 1905, and until their successors are commissioned and qualified. Successors shall be appointed in like manner, and their term of office shall be four years, and until their successors are commissioned and qualified. One of said commissioners shall be a member of and belong to the leading party politically opposed to that to which the governor belongs. In making the appointment of commissioners, the governor shall designate the commissioner who shall be chairman of the board of election commissioners of such city. In case of vacancy for any cause in said board, the same shall be filled by the governor for the unexpired term until the assembling of the next legislature, when the name of said commissioner shall be submitted to the senate by the governor for confirmation, as those of the other commissioners when appointed. Such commissioners shall be legal voters, residents of the state for at least five years, and of such city for a like term and be of approved integrity and capacity; they shall hold no other office, and shall be ineligible to any elective or appointive office during their term of office, and shall, before entering upon the duties of their said office, take and subscribe an oath to

(*r*) State ex rel. vs. Spencer, 164 Mo. 1. c. 51.

(*g*) State ex rel. vs. Dillon, 78 Mo. 1. c. 490 (construing this section, then Sec. 5563 R. S. 1879).

*See State ex rel. vs. Mason, 155 Mo. 486, holding the law of 1899 as valid. The present law is that of 1903 (Sess. Acts 1903, p. 170 et seq.) which in terms repealed the previous acts of R. S. 1899, Art. VIII, Chap. 102 (secs. 7222 to 7269). In how far the members of the board are, or are not, state or city officers see: State ex rel. vs. Meier, 96 Mo. App. 160; State ex rel. vs. Higgins, 144 Mo. 410. The board of election commissioners is an administrative body, with specific powers and duties, which in no manner trench upon the judicial power vested in the courts; prohibition will not lie against them; nor will the courts interfere by prohibition or injunction where the relief asked for cannot be made available to plaintiff because the election or primary must be held before the questions involved can be finally passed upon by the court; courts will not sit to determine abstract or speculative questions of law: Kalbfell vs. Wood, 193 Mo. 675.

support the constitution of the United States and of this state, and to demean themselves faithfully and impartially in office, and each to give bond to the state in the sum of ten thousand dollars with security to be approved by the governor, conditioned for the faithful and honest performance of the duties of his said office, and the care and preservation of the property thereof. Said oath of office and bond to be filed in the office of the secretary of state. Said election commissioners shall make all necessary rules and regulations, not inconsistent with this article, with reference to the registration of voters and conduct of elections; and shall have charge of and make provisions for all elections, general, special, local, municipal, state and county and of all others of every description to be held in such city or in any part thereof at any time. (Ib., sec. 2.)

Sec. 247. Board shall print rules and regulations—records open to inspection—shall print and furnish on demand all official data—board shall make report after each election—registry book for precincts.—Said board of election commissioners shall print all necessary rules and regulations not inconsistent with this article, having reference to the registration of voters and the conduct of elections, and shall prescribe (except where the form of any affidavit is prescribed in this article) and furnish the forms of all affidavits required under this article. All books, papers and records in their office shall be subject to the inspection of any qualified voter of the city at all reasonable times. Said board shall cause to be kept in their office the following printed official data, and furnish the same to any qualified voter on demand at the office of the board of election commissioners:

1st. Printed pamphlets or lists showing in numerical order ward boundaries, and in each ward in numerical order precinct boundaries, including statement of location of places of registration and election polling places of each of such precincts, so arranged that the information pertaining to any precinct may be detached.

2nd. Printed lists showing wards and precincts in numerical order, and the names and residences of the judges and clerks of registration and election of each precinct, and the political party to which each belongs.

3rd. Separate printed lists, by precincts, showing names of qualified voters, alphabetically arranged, as they appear on the registry books; giving name, number of line in registry books and residence of such voter, at the time such registry books are delivered to the election commissioners by the precinct registrars at the close of registration.

4th. Similar separate printed supplementary lists, by precincts, of names added as qualified voters to the registry books by precinct registrars.

5th. Also similar supplementary lists, by precincts, of names erased from the registry books by precinct registrars.

6th. Also similar printed supplemental lists, by precincts, of voters added, restored or erased by the board of election commissioners.

7th. Also similar printed supplemental lists, by precincts, of voters added or restored by the court.

8th. Also similar [printed] supplemental lists, by precincts, of voters added by the election commissioners or the courts, and whose names do not appear on the regular registration lists.

9th. Also similar printed supplemental lists, by precincts, of voters shown by the registry books, to be qualified, but who did not vote on election day. The board shall require registration officers to make report just before their final adjournment, on forms to be prescribed and furnished by the board, of the general conduct of the public, the peace officers, the registration officers and applicants for registration during the days of registration. Any judge or clerk of registration shall, at the same time or within five days thereafter, make separate report of anything which he may think either the said board or a majority thereof should be advised. Similar reports, on forms to be prescribed and furnished by the board, shall be made by the judges and clerks of election before their adjournment on election day; and within five days thereafter any judge or clerk may make a like separate report to the said board. Such reports shall be carefully preserved by the said board of election commissioners, and shall be subject to public inspection. Within ninety days after each election the board shall make a comprehensive report, and any member thereof may make a separate report, to the governor of the state of everything of public interest relating to the preceding registration and election, and the workings and administration of the election laws; and a copy of such reports shall be at once delivered to the mayor of the city, who, after reviewing them, may make such written suggestions and recommendations to the governor concerning the report and the registration and election, and the operation and administration of the election laws, as he may be advised. Such report of the board, and suggestions and recommendations of the mayor, shall be subject to public inspection, and shall be printed by the board for the information of the voters of the city. Two registry books for each precinct in the city

shall be provided by the board of election commissioners for the purpose of registration in such precinct, prepared substantially in the form as provided in this article. In one of the registry books the applicant for registration shall sign his name or make his mark if unable to write, and have the same witnessed, in the column for that purpose, and this registry shall be known as the original registry book. The other registry book shall be an exact copy of the original and shall be known as the duplicate of the original registry book. Such registry books shall be kept in the office of the board of election commissioners, except on such days as they are in the custody of the precinct registration officers, as provided in this article. During the days of registration such registry books shall be in the custody of the judges and clerks of registration, and the public registry book shall be subject to the inspection of any resident of the precinct. At the close of each day's registration the said duplicate registry book shall be compared by the judges and clerks of registration, and made to conform to the original registry book. (Ib., sec. 3.)

Sec. 248. Secretary of commissioners—powers and duties.—Such election commissioners shall appoint a secretary of the board who shall hold his office during the pleasure of said commissioners, and he shall give a bond to the state in the sum of five thousand dollars, with security to be approved by the commissioners, conditioned for the faithful and honest performance of the duties of his said office, and shall exercise a general supervisory control and direction over the office, and clerical force appointed by said commissioners, subject to such rules and regulations as the board may from time to time provide, and such clerical force, as far as possible, shall be divided between the two political parties and appointed and approved as hereinafter provided in the case of judges and clerks of election; both as regards the duties to be performed by such clerks, and as to the number. Such commissioners shall have the right and may employ additional clerical force and other assistants from time to time as may be necessary to promptly and carefully perform the duties of the office, to be appointed, divided and approved in like manner. Said secretary and employes shall be subject to the same restrictions and take and subscribe like oaths as said commissioners, and file the same in the office of the city register, and a copy of the same in the office of the commissioners of election. Commissioners, secretary and judges of elections and registration, and clerks employed in the office of said commissioners, are hereby authorized and, upon application to them by the affiant, directed to administer all oaths and affirmations pertaining to the administration of the duties of their several offices and in the affairs and business thereof and certify to such oaths, when the same are signed, free of charge. (Laws 1903, p. 173, sec. 4.)

Sec. 249. Office of commissioners—shall provide ballot-boxes, etc.—duties.—The office of such board of election commissioners shall be in the city hall of such city, and shall be kept open for the transaction of the duties and business of said office during business hours. Said election commissioners shall purchase and provide all necessary ballot-boxes, and all books of registration, poll-books, tally-sheets, ballots, blanks and stationery of every description with printed headings and certificates and other necessary and proper equipment for the registration of voters and the conduct of such elections, and for every incidental purpose connected therewith; and shall select and appoint the places of registration and also the polling place in each precinct, and cause the same to be fitted up, warmed, lighted and cleaned, and such place or places shall be located in the most public, orderly and convenient portion thereof. And no room shall be designated or used in which spirituous or intoxicating liquors are sold. (Ib., sec. 5.)

Sec. 250. City to be divided into election districts.—It is hereby made the duty of such board of election commissioners for such cities within ninety days after taking effect of this section, to divide such cities into election precincts, regarding ward lines and composed of compact and contiguous territory, which shall contain as nearly as practicable three hundred actual voters; and in making such division and establishing such precincts, such commissioners shall take as a basis the poll-books of the number of votes cast at the last preceding presidential election. At least six months before each subsequent presidential election the election commissioners shall revise and rearrange the precincts and increase or decrease their number on the basis of the votes cast at the previous presidential election for president, making such precincts to contain, as near as practicable, three hundred voters, measured by the vote of such election. The precincts in each ward shall be numbered consecutively. (Ib., sec. 6.)

Sec. 251. Judges and clerks to be selected—qualifications.—Such board of election commissioners shall, ninety days prior to the first city or state election after this act becomes a law, and each two years thereafter select and choose four qualified voters as judges of election for each precinct in such city; they must be citizens of the United States; must be men of good repute and character; able

to read and write the English language, be of good understanding and capable; they must have resided in the precinct for which they are selected to act not less than thirty days before their appointment, and be entitled to vote therein at the next election, and not hold any office or employment under the United States, the state of Missouri, or the city in which such election is held, and not be candidates for any office at the next ensuing election; two clerks of election for each precinct shall also be selected within the same time, and their successors each two years thereafter, by such commissioners, who shall possess the same qualifications as the judges aforesaid. Before entering upon the duties of their offices, each judge and clerk so appointed shall take and subscribe to a like oath as that taken and subscribed by the election commissioners and file the same in the office of the election commissioners. Said judges and clerks shall be appointed for a term ending ninety days prior to the next state election after the election at which they were appointed to serve, and shall during said term serve as judges and clerks at all special, local or municipal elections in such cities; where a vacancy in the office of judge or clerk shall occur from any cause, said commissioners shall make an appointment as herein provided to fill such vacancy. Two of said judges and one of said clerks of election shall belong to and be members of the political party which at the last general state election for state officers polled the highest number of votes for governor, and two of said judges and one of said clerks of election shall belong to and be members of the political party which at said last state election polled the next highest number of votes for governor; and the names of two of said judges and one of said clerks shall be designated by the election commissioner, or commissioners, belonging to and a member or members of the same political party as such judges and clerks, subject to ratification by the board of election commissioners; but said board of election commissioners shall accord to each of the aforesaid political parties equal representation in the appointment of judges and clerks. If any person holding the position of judge or clerk of election is found not to possess all qualifications prescribed in this section, or if any such judge or clerk shall be guilty of neglecting the duties of the place, or be guilty of any official misconduct, then such person shall be removed from office by the commissioners, and any such vacancy shall be immediately filled by the appointment of a person having the same qualifications as the person whose place he fills, as hereby required, who shall be selected and appointed as this section provides. (Laws 1903, sec. 7—*h.*)

Sec. 252. **Names of judges and clerks to be published—qualifications of any judge or clerk may be objected to—board to hear objections.**—At the time of such appointment of judges and clerks, the board of election commissioners shall publish for one day in two newspapers published in such city, of opposite politics, in the English language, each having a daily paid circulation of not less than twenty thousand copies, a notice, stating that the persons mentioned below have been appointed to act as judges and clerks in the various precincts enumerated, at all elections to be held for two years following such notice, and should have the qualifications by law required herein for judges and clerks, setting forth the same, and to which party they are respectively supposed to belong, and requesting all persons to inform the election commissioners as to any want of qualification on the part of any judge or clerk mentioned; that on a day named in said notice, which shall be not more than five days after the day of publication, the board of election commissioners will sit at its office for the purpose of examining into any objections made as to the qualifications of any judge or clerk; said notice shall further state the hours of said session, which shall be from nine to twelve a. m. and from two to ten o'clock p. m., and shall further state that if all objections to the qualifications of judges and clerks are not disposed of on said day, it will sit from day to day between the same hours, until the same are all determined; and further, that any person found disqualified upon such information will be removed and a duly qualified person appointed in his stead. On the day and at an hour named for the beginning of such session, the election commissioners shall meet at their office and consider the objections made to the appointment of each judge and clerk, beginning with the lowest numbered precinct of the first ward and continuing in regular number to the highest precinct of the ward of the highest number; the commissioners may examine any person appearing before them under oath; they shall decide each case as soon as the evidence therein is before them, and announce their decision, announcing also the dissent of any commissioner if the decision of the board is not unanimous; a minute shall be made of such decision, setting forth all objections made against any judge or clerk, and the finding of the majority thereon, and of the dissenting number, if

(2) Under this section the board is not vested with the power to remove judges and clerks duly appointed, without an assignment of charges against them authorizing removal and a reasonable opportunity to be heard; such judges and clerks of election are public officers: *State ex rel. vs. Maroney*, 191 Mo. 531

there be any dissent; if all objections to judges and clerks are not concluded on said day, the commissioners shall sit from day to day, between the same hours, and at the same place until all such objections are disposed of; all judges and clerks found to be disqualified upon such hearing shall be immediately removed and persons having the necessary qualifications appointed in their places, divided between the two political parties as provided for herein. Within twenty days after the last of said sessions the election commissioners shall cause all the judges and clerks appointed, who have not been removed or excused from service for good cause, as provided herein, to be qualified so far as it is possible for them to do so, and any vacancies then existing shall be filled by said commissioners in the same manner as heretofore provided for the appointment of judges and clerks; such notice shall also set forth the wards in numerical order, and under each ward its precincts in like order, and under each precinct the street and number of the place of registration for such precinct. Said notice shall contain under each place of registration the word "judges," and under it the names of the judges appointed to serve in that precinct, with their respective places of residence; next, the word "clerks," followed by the names and places of residence of the various clerks appointed to serve in that precinct. (Laws 1903, p. 175, sec. 8.)

Sec. 253. Notice of registration days, etc.—It shall be the duty of such election commissioners to give notice by publication on Friday and Saturday preceding the first day of registration provided for herein, in two daily newspapers of such city, of opposite politics, in the English language, and having a daily paid circulation of not less than twenty thousand copies of the time and place of registration in each precinct of the city. (Ib., p. 176, sec. 9.)

Sec. 254. Registration days—registration books.—The judges of election aforesaid shall constitute the board of registry in the precinct for which they are appointed. There shall be four days for registration, as follows: Monday, Tuesday, Wednesday and Thursday of the seventh week prior to election, and upon which days the judges and clerks shall meet in their respective precincts. A new general registration shall be made in every year in which a presidential election occurs, and just prior thereto. Two registry books shall be provided and furnished to each board of registration by the said election commissioners for the purpose of said registration; the headings to the book shall be so prepared that the registry shall be made alphabetically according to the surname of each person applying, but it shall be arranged so that the residence of such person shall appear in the first column. The register shall be ruled, and one name shall be written on each line, but no name shall be written between the lines. Under the column "residence," the name and number of the street, avenue, or other location of the dwelling, if there be a definite number, and if there shall not be a number, such clear and definite description of the place of such dwelling as shall enable it to be readily ascertained. If there shall be more than one house at the number given by the applicant as his place of residence, state in which house he resides, and if there be more than one family residing in said house either the floor on which he resides, or the number or location of the room or rooms occupied by him, whether front or rear—every floor below the level of the street or ground being designated as the basement, the first floor above such level being designated as the first floor, and each floor above that as the second or such other floor as it may be. Under the column "name," the name of the applicant, writing the surname first, and given or Christian name after in full. Under the column "nativity," the state, county, kingdom, empire or dominion, as the fact stated by the applicant shall be. Under the column "color," the word "white" or "colored," as the fact is. Under the column "age," the age of said applicant, and under the column "occupation," the occupation of said applicant. Under the subdivision of the general column "term of residence," the periods, by days, months, or years, stated by the applicant in precinct, city and state. Under the column "native," the word "yes;" under the column "naturalized," the word "yes," according to the fact stated. If the applicant be of foreign birth, and has not been naturalized, but has made a declaration of intention to become a citizen, then under the column "declaration of intention," the word "yes." Under the column "qualified voter," the word "yes" or "no" as the fact shall appear or be determined by the board of registry, it being, however, required of them to designate as a qualified voter any male person who, if otherwise qualified, shall not at the time of making application, be of age, provided the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his application, and not later than the day of election immediately following such time of applying, or, if foreign born, whose declaration of intention to become naturalized will have been made one year and not more than five years before such election. Under the column "date of application," the month, day and year when the applicant presented himself and was adjudged a qualified voter in the election precinct. Under the column "signature," in one of the registers, the applicant shall write his

name. If he is unable to write he shall make his mark after his name is written for him. And his signature shall be witnessed by one of the judges. (Ib., p. 176, sec. 10.)

Sec. 255. Precinct board of registry—duties.—In the registration of voters, said board of registry shall proceed as follows: They shall open the registration office at eight a. m., and continue in session until nine p. m. on each of said days. One of the judges shall administer to all persons who shall personally apply to register the following oath, or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, age, occupation, your qualifications as an elector, and your right as such to register and vote under the laws of this state, so help you God. Each of said clerks of election and one of said judges of election shall have charge of the registry books and shall make the entries therein required by this article, and one of the judges shall ask the questions as to qualifications, and after he is through any of the judges may ask questions, one of the judges of election may, when necessary, relieve one of the clerks from time to time, as necessity may seem to demand, in making entries in said book. The name of every applicant shall be entered in such registry books, and all the facts shall be therein stated, as herein provided, whether he is entitled to vote or not. If it shall be determined by the board of registry that he is not a qualified voter in such precinct, then an entry shall be made in the appropriate column "no," and if qualified an entry shall be made in the same column "yes." Unless a majority of the judges shall determine the applicant is a qualified voter he shall be entered as not qualified, subject to the applicant's right of appeal as herein provided. Only such male persons, of the age of twenty-one years, residing in such precinct, as apply personally for registration, or who qualify by affidavit, as provided in this article, shall be entered in such register; but every applicant who would be twenty-one years of age on the day of the next election, or if foreign-born, whose declaration of intention to become naturalized will have been made one year and not more than five years before such election, if otherwise qualified, shall be entered on such register. Every applicant who has commenced to reside in such precinct at least forty-seven days before such election shall be entered in such registry, and shall be marked "qualified" or "disqualified," as the case may be; but unless on the day of election he resides in such election precinct, he cannot vote therein, although otherwise qualified. At the end of the day's registration each of said judges shall sign his name at the end of the list on each page of the registration book. Any vacancy upon such board of registration on any day of registration by reason of absence, disqualification, refusal to act or otherwise, of any judge or clerk of election, shall be filled by the judge or judges present and the same oath shall be administered by one of the judges present to such judge or clerk as provided for regular judges and clerks. The judge or clerk so appointed shall be of the same politics as the judge or clerk he succeeds. (Laws 1903, p. 177, sec. 11.)

Sec. 256. Qualifications of voters.—Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in the state one year next preceding the election at which he offers to vote, and during the last sixty days of the time shall have resided in the city where such election is held, who has not been convicted of bribery, perjury or other infamous crimes, or of a misdemeanor connected with the exercise of the right of suffrage, nor any officer, soldier or marine in the regular army or navy of the United States, nor while kept at any poorhouse or other asylums at public expense, nor while confined in any public prison shall be entitled to vote at such election, for all officers, state or municipal, made elective by the people, or at other elections held in pursuance of the laws of the state, but shall not vote elsewhere than in the precinct where he resides and is registered. (Ib., p. 178, sec. 12.)

Sec. 257. Challenges—appeals.—Any voter of the precinct shall be permitted to be present at the place of registration in said precinct, and shall have the right to challenge any applicant who applies to be registered; but if the board is satisfied that such person is a qualified voter, he must be so registered. (Ib., p. 179, sec. 13.)

Sec. 258. Verification lists—challenges.—The election commissioners shall prepare and furnish to the board of registration in each precinct, three blank-books, to be known as "verification lists," each page to be ruled into columns, and contain pages sufficient for each street, avenue and alley in the precinct. During the progress of registration, or immediately thereafter, the clerks of said board shall transfer all the names upon the register to the left-hand pages of such "verification lists," arranging them according to the street, avenues, alleys or courts, beginning with the lowest residence number, and placing them numerically, as nearly as possible, from the lowest up to the highest number. They shall first write the name of such street, avenue, alley or court at the top of the second column and then proceed

to transfer the registered names to the pages of such "verification lists," headed "registered names," according to the street number as above indicated. If, during either day of registration, a registered voter of the ward shall come before the board of registry and make oath that he believes that any particular person upon such registry is not a qualified voter, such fact shall be noted; and after the completion of such "verification lists," such board or one of said judges, shall make a cross or check mark in ink opposite such name upon each of said "verification lists." If such judges shall, however, know that any person so complained of is a qualified voter, and shall believe that such complaint was only made to vex and harass such qualified voter, then such cross or checked mark shall not be put upon such lists. The board of registration shall return the two registers to the office of the board of election commissioners not later than 8 p. m. of the day following the fourth day of registration. The three verification lists shall be given to said clerks at the close of the last day of registration. (Ib., sec. 14.)

Sec. 259. Precinct canvassers—duties.—The clerks of election are hereby constituted canvassers of the precincts for which they are appointed, and upon the Friday and Saturday of the seventh week prior to said election, if so much time shall be required, said two clerks shall, each having one of said verification lists, go together and canvass such precinct, calling at each dwelling place or each house where any one may reside in such precinct, and each dwelling place as indicated upon said "verification lists," and if they shall find that any person upon their "verification lists" does not reside at the place designated thereby, they shall make a check-mark opposite such name. In making such canvass, such canvassers shall make special inquiry at the residences as designated in the registry and "verification lists," as to all the persons so registered as qualified voters. Said clerks shall meet at eight o'clock in the forenoon of each day of said canvass, and proceed with such canvass. If either of said clerks shall fail to appear at the place designated by fifteen minutes after eight o'clock, on either of said days, the clerk appearing shall immediately notify the election commissioners of said failure to appear, and upon such notification, or upon being otherwise so informed, the election commissioners shall immediately appoint a clerk, of the same politics, in place of the one absent or failing to act; and if both of said clerks fail to appear within the time mentioned then the board of election commissioners, upon being informed of such failure, shall appoint two clerks of different politics in the places of those absent or failing to act.

Sec. 260. Notice to be sent those whose residence cannot be located.—Upon the completion of said canvass, said canvassers, or one of them, shall sign a notice and send the same through the mail, duly stamped, to the address given upon the registry and "verification lists" of all persons named therein against whose names they have made check-marks, indicating that they did not reside at such place as before stated, and also to the address of all persons against whose names said registry board or judge of election has placed a check-mark in such "verification lists," which shall require such person to appear before the board of registry upon the Friday of the fourth week prior to said election, and to show cause why his name should not be erased from such registry. Proper blanks and postage stamps shall be furnished for the purpose to said canvassers by the commissioners. A similar notice shall also be served by one of said canvassers, either at the time said canvass is being made on or before the Monday following said canvass by leaving the same with the party, if found, or, if he be not found, at the place designated in such registry and "verification lists," by leaving the same at such address, if there be such place. Such notice, to be sent through the mail, must be mailed not later than ten o'clock of said Monday morning. Upon the conclusion of said canvass, the clerks shall make, upon the third copy of the verification lists, the same notations as contained on the two lists used by them in making their canvass, and the three lists, when so checked, they shall deliver at the office of the election commissioners not later than eight p. m. of the Monday following their canvass. And it shall be the duty of said commissioners, when complaint is made to them, to investigate the action of such clerks or canvassers, and to cause them to be punished for such neglect of duty. (Laws 1903, sec. 16.)

Sec. 261. Commissioners to print copies of verification lists—copy to be posted in each precinct.—The commissioners shall print, not later than Friday of the fifth week prior to said election, copies of said verification lists as returned to them by the clerks, with the various checks or cross marks thereon, and shall further print conspicuously on each copy a statement that all parties against whose names such checks or cross marks appear may be stricken from the registration lists unless they appear before the precinct board of revision at their session to be held on Friday of the fourth week prior to said election, and show cause why their names should not be so erased. A printed copy of the list for each precinct shall be posted near the front entrance of the polling place of such precinct, or as near the same as practicable, not later than Saturday of said fifth week. All such notices

provided for in this section shall be printed in plain large type in sufficient numbers to meet the demand, and upon application a copy of the same shall be given, free of charge, to any registered voter in such precinct. (Ib., sec. 17.)

Sec. 262. Judges and clerks to revise registry, when—proceedings.—On the Friday of the fourth week prior to said election said board of registration, having first obtained from the election commissioners the books of registration and two of the verification lists for their election precincts, shall again meet at the place designated, and the said clerks of election shall meet with them, and they shall remain in session from ten a. m. until ten p. m. for the sole purpose of revising their registry and no new names shall be added. Said canvassers, or one of them, shall make out a list of the names of parties checked and designated as aforesaid, and to whom such notice has been sent, given or left with the address, and attach his or their affidavit or affidavits thereto; blank forms shall be furnished, stating that notice was mailed to each of said parties at the places designated on such lists, on or prior to ten a. m. on Monday of the sixth week prior to said election, and that notice was also personally left on or before said hour of said day at the said address of each of said parties named in said list so attached, if there be any such address. If any person to whom such notice has been sent shall appear before the board of registration during said session, he shall make oath and sign an affidavit in substance as follows:

"I do solemnly swear that I am a citizen of the United States (or have declared my intention to become a citizen of the United States on the _____ day of _____, 19____, according to law), and that I have resided in the _____ precinct of the _____ ward in the city of _____ and the county of _____, and in the state of Missouri, since the _____ day of _____; that I am not an officer, soldier or marine in the regular army of the United States, and that I have never been convicted of any felony or any misdemeanor connected with the exercise of the right of suffrage (or if convicted state the time of conviction, and when pardoned by the governor of the state)."

This affidavit shall be signed and sworn to before one of such board of registry, and it shall afterward be preserved and filed in the office of said election commissioners; said board of registration shall further examine him on oath, and also swear such canvassers, and hear him or them upon the question, and they shall also have the power to send one or both of said canvassers to make further examination and inquiry at the place claimed by such person to be his residence, and again examine such canvassers touching the same, and if, after such examination and hearing, the majority of said board are of the opinion that such person is not a qualified voter in such precinct, they shall mark the word "yes," under the column of the registry marked "erase," and shall also draw a line in ink under his name; which, in case of any registration, shall indicate that the name of such person is erased from the register, and shall not be entitled to vote unless his name be restored as herein provided. If any person to whom notice has been sent because his declaration of intention to become naturalized has been made more than five years before the next election, shall appear before said board at such session, he shall show in the same manner as in the case of original registration that he has become naturalized, otherwise his name shall be erased from the register. If any person, already registered, shall appear before said board at such session and make oath that he has removed to another place in the same precinct, said board, if they believe him, shall not erase his name, but shall make the correction to his residence in the books of registration. In making correction of entries as to residence and naturalization, a line should be drawn through the former entries, the proper entries made, and the word "corrected," with the date, written in the column headed "remarks." During the last hour of said session, if any person so notified to appear at such session shall not appear and show cause why his name should not be erased from such register, the same shall be erased in the manner aforesaid. Either of said clerks shall have the power and right of both in the matters pertaining to such canvass, except that both are required to go together to make such canvass. In the case of temporary disability on the part of either canvasser or clerk, either judge who belongs to the same political party may appoint a temporary clerk or canvasser, who shall belong to the same party, and administer to him the usual oath of office, and he shall perform all the duties of the office until the disability of the regular clerk or canvasser is removed. (Ib., sec. 18.)

Sec. 263. Voter may ask that name on registry be erased, when—appeals.—Any voter or voters in such precinct may make application in writing before said board of registration at the session mentioned in the next preceding section, to have any name upon the register of such precinct erased, which application shall be in substance in the words and figures following:

"(I, or we,) do hereby solemnly swear (or affirm) that (I, or we,) believe that _____ is not a qualified voter in _____ precinct of _____ of the city of _____, and hence ask that his name be erased from the register of such precinct."

Such application shall be signed and sworn to by the applicant, and filed by him with said board, and returned by them to the board of election commissioners with the registration lists to be filed in the office of said commissioners. The person making such application shall give the person whose name he or they seek to erase due notice in writing or otherwise, at least one day before the day of said session. If, upon hearing the application, the board of registration conclude to erase the name they shall so note it on the register. (Ib., sec. 19.)

Sec. 264. Duty of judges on hearing application.—If the judges upon hearing said application conclude that said name should not be erased from the register, but their conclusion is reached by the vote of less than a majority of the total number of judges appointed for such precinct, then they shall write on the register opposite the name of said voter the word “challenged,” and that word shall appear opposite the name of such voter on the register on election day. (Ib., sec. 20.)

Sec. 265. Judges shall sign registry—registry to be sent to commissioners—commissioners to proceed, how—lists public records.—At the end of the last session provided for, the said board of registration and said clerks shall correct and compare the registers and verification lists aforesaid, and make them correspond and agree; and said judges and clerks shall then, immediately following the last name on each page of the registers, sign their names so that no other name can be added with[out] discovery, and shall return the two registers and two verification lists to the possession of the election commissioners. Said commissioners shall cause the registration lists, as so revised, to be printed, and the names thereon and addresses thereof arranged in the order required in the verification lists, not later than Friday of the first week prior to the election for which such registration is made. All notices provided for in this section shall be printed in plain large type, in sufficient numbers to meet the demand, and upon application a copy of the same shall be given, free of charge, to any qualified voter of said precinct. (Ib., sec. 21.)

Sec. 266. Circuit court shall hear applications to be placed on registration lists, when.—The circuit court of said city shall, on Friday and Saturday of the third week prior to such election, specially sit to hear such applications as shall be made to it to place any name upon the register in any particular precinct. Such applications shall be sworn to and shall state the facts showing the applicant to be a qualified voter, with his residence, and that the applicant has applied to the board of registry in the precinct during the proper hours on one of the registration days, and that said board refused to place his name on such registry; or that having been duly registered he appeared before said board on the day appointed for revision, and against his consent his name was stricken from the registration list; such application shall be filed in said court before its opening on Tuesday of the third week prior to said election, and wherever such court shall be composed of more than one division, applications shall be assigned in regular order to the various divisions, as in civil cases. The court shall cause a docket of such applications to be made out, arranged by wards and precincts, stating the name of the person whose registration is to be affected by such application. Such applications shall be heard summarily and evidence may be introduced for or against such application. No formal pleadings shall be required. Each case shall be decided at once on hearing, and the clerk of the court shall make a minute of the disposition of each application. If the court shall order any name to be placed upon the registration list, and such order shall not be appealed from, a minute of such order shall be certified to the election commissioners, who shall forthwith cause such name to be placed upon the proper register, and indicate that it was entered by order of the court. After the entry of the registration so allowed by said court (without appeal) no further change shall be permitted, except for the subsequent registration of absentees or invalids, as herein provided, when such further registration shall be made, if any, and the appropriate stamp prepared shall be affixed to the end of each page of names in each precinct registered by said board of commissioners. (Ib., sec. 22.)

Sec. 267. Appeals from circuit court.—As the circuit court decides each case, an order therein shall be entered not later than the Tuesday following the hearing of the application, and any person desiring to appeal from such order may appeal to the supreme court of the state, or court of appeals, according to the facts; if application be made therefor within two days after the entry of said order, such appeal shall be allowed on the giving of an appeal bond in the penalty of two hundred and fifty dollars, conditioned to pay the expense of such appeal in case his appeal be not sustained. The time for filing such appeal bond and certificate of evidence shall be within four days from the entry of said order, and upon presentation to the court of a certificate containing the evidence heard at such hearing within said time, the court shall sign the same, and thereupon the same shall become part of the record in said cause. The original record in such cause shall be at once transferred by the clerk of said court to the court to which such appeal lies, and such appellate court, or if it be in vacation, any judge thereof shall proceed at

once to hear and determine the appeal, and the judgment rendered upon such hearing shall be at once certified to the board of election commissioners and also to the circuit court, and the board of election commissioners shall carry out the order made by said appellate court or such judge in vacation. (Ib., sec. 23.)

Sec. 268. Registration by board or court—no protection against false registration, etc.—No person admitted to any registry by order of any court, or by the [board] of election commissioners, shall be protected by such order in case he should be indicted for false registration or false voting. (Ib., sec. 24.)

Sec. 269. Transfers of registered voters.—Whenever any person who has been duly registered as a voter by the board of registration of the precinct in which he then resides, and whose name shall have been returned on the registration lists as a voter by the board of registration to the board of election commissioners, after the close of registration shall change his residence from one precinct in said city to another, or from one part of such precinct to another part thereof, before the day of the election for which he is registered as a voter, and shall, after making such change at any time on or before the Wednesday preceding such election apply to the board of election commissioners to have his name transferred from the precinct in which he is registered, or his residence changed from his former to his present residence in such precinct, said board shall cause him to be sworn and examined as to the facts of such change, and his statement shall be taken down in writing and signed and sworn to by him and duly certified by said board; if said board shall be satisfied that the applicant has changed his residence, as stated, and that he is entitled to have his name transferred and his place of residence changed, they shall first cause his name, where he moved from his former precinct, to be erased from the registry thereof, and transferred to the precinct in which he then resides, or if he has changed his residence from one place to another in said precinct, they shall change his address on the register of such precinct. (Ib., sec. 25.)

Sec. 270. Registration of invalids and absentees.—If any person who has the qualifications required by this article to entitle him to register as a voter in such city shall be absent therefrom at a distance of more than fifty miles, or confined by illness or other disability to his place of residence, during all of the days appointed for registration prior to any election at which he desires to vote, he may file his application in the office of said election commissioners to have his name registered in the precinct in which he resides. Such application shall be verified by his affidavit and shall show that he has the qualifications required of a voter by this article, and that he was prevented by said absence, sickness or disability from appearing for registration before the precinct board of registry on all of said registration days, specifying such days and stating at what place or places he was during each of said days, and where registration is claimed on account of absence, the day upon which he returned after his absence during said days, or in case of illness or other disability stating the first day upon which such disability was removed. If his application is based upon his absence, he shall file at the same time the affidavits of two registered voters of said precinct stating that to their knowledge he is a qualified voter, and setting out therein his qualifications, that he resides in said precinct, and that they believe in the truth of his statement in his affidavit as to his reasons for not appearing before said registry board on all of said days of registration, specifying them. Where such application is based upon a physical disability the affidavit of said applicant shall describe the nature of such disability as the same is most commonly described, and said affidavit must be accompanied by an affidavit of a physician duly admitted to the practice of medicine in such city, which shall describe such disability as the same is most commonly described, and that such disability continued during said registration days, specifying them, also stating the day on which the same was first removed. Said board shall file all affidavits made as aforesaid and carefully preserve the same. Any voter may make objection to any person being registered upon such application in the manner and form as objections are required to be made before the registry board. The election commissioners shall sit specially to hear such applications on the Wednesday of the first week prior to said election between the hours of nine a. m. and twelve m. and between two p. m. and ten p. m., and if all such applications be not then determined it shall sit on the same hours of the next day. Said applicants shall appear in person before the commissioners on said Wednesday; they may be further examined by the commissioners under oath and further testimony taken in favor of or against their applications. All cases shall be heard summarily and decided as soon as heard. If the board shall believe any applicant is entitled to registration according to the provisions of this section he shall be registered as a voter; otherwise his application shall be rejected. If registered, opposite his name on the registry shall be entered the word "absentee" or "invalid," as the case may be. (Ib., sec. 26.)

Sec. 271. Revised lists of voters—when to be completed and how posted.—The board of election commissioners shall cause to be printed and ready for distribu-

tion not later than Friday of the week prior to the election, the revised registry lists as returned to them by the registration board at the close of revision, and further corrected as far as may be necessary by the judgment of the supreme court, court of appeals, or the circuit court, or transfers by the board of commissioners, or registrations of absentees or invalids as herein provided. In cases, however, where the order of any court shall be received, or any transfer or registration shall be made by the election commissioners, as herein provided, at so late a date that the name ordered to be registered cannot be printed upon the revised registry lists, all of such names so to be registered in any precinct shall be printed in a supplemental list, copies of which shall be given upon application to any qualified voter in such precinct upon demand; a copy of which shall also be given to the judges of election of such precincts with the ballot-box and poll books. Such revised lists shall be, except as corrected by the board of registration at revision, and by the orders above mentioned, in all respects like the registration lists above ordered to be published on the Friday of the fifth week before said election. (Ib., sec. 27.)

Sec. 272. Delivery of poll-book, ballot-boxes, etc., to judges.—Said commissioners shall, on the day preceding any election, have delivered to one of said judges, at his residence, one of the registers of said precinct, and the key (or keys, if there be more than one to the ballot-box), and to a judge of the opposite political party, at his residence, the other of said registers, the ballot-box, poll books, verification lists and necessary blanks and stationery, and a sealed package of ballots. (Ib., sec. 28.)

Sec. 273. Polls to be opened and closed, when—place of absent judge or clerk, how filled—penalty for absence or detention of ballot-box, register, etc.—The election polls shall be opened at six o'clock in the morning and continue open until seven o'clock in the afternoon of the same day, at which time they shall be closed. No judge or clerk shall absent himself to exceed five minutes at any one time until the ballots are all cast and counted, and returns made thereof. If any judge or clerk shall not be present after the expiration of fifteen minutes from the time to open the polls, or be disqualified, or refuse to act, the judge or judges present shall fill the place of such absent judge or clerk, or vacancy, by selecting a person of the same political party as the judge or clerk absent. One of the judges shall administer to such judge or clerk the oath required of the judge or clerk originally appointed, and such appointee shall perform like duties and be subject to the same punishment and penalties as any other judge or clerk. If any judge or clerk shall be fifteen minutes late, but shall present himself at the precinct for which he is appointed, and offer to act, at or before seven o'clock in the forenoon, he shall be permitted to act, and the person, if any, who has been appointed to fill his place shall retire but shall be entitled to one-half day's pay provided for judges and clerks hereunder, and the judge or clerk appointed who has failed to be present shall be entitled only to receive the remaining half day's pay; if, however, any judge or clerk shall not present himself at the polling place for which he is appointed to act at or before seven o'clock in the forenoon he shall not be permitted to act during that day, nor be entitled to any compensation for that day. (Ib., sec. 29.)

Sec. 274. Ballot-box to be kept in public view—penalty.—Before voting begins the ballot-box shall be empty, and it shall be opened and shown to those present to be empty, and not be removed from public view from the time when shown to be empty until after the close of the polls. It shall be locked and the key delivered to one of the judges and shall not again be opened until the close of the polls. If any obstruction shall be, prior to or during such election, interposed so that all who desire cannot constantly see such ballot-box, it shall be the duty of such judges to remove such obstruction on request of any voter of the precinct, or on their own motion. (Ib., sec. 30.)

Sec. 275. Poll-book, how kept.—Each of the clerks of the election shall keep a poll-book which contains a column headed "number," another headed "residence," and another headed "names of voters." The name and street and number of the residence of such voter shall be entered upon each of the poll-books by the clerks, in regular succession, under the proper headings, and the number of such voter, in the order in which he voted, placed opposite the name in the column headed "number." (Ib., sec. 31.)

Sec. 276. Procedure when ballot is offered by voter—in cases of challenge.—One of the said judges of election shall receive the ballot from the voter, and shall announce his residence and name in a loud voice, and shall write on the back of said ballot the number of the same, in the order in which it was received, which number shall also be placed opposite the name of the voter in the poll-book, in the column headed "number," and another judge shall put the vote in the ballot-box in the presence of the voter and the judges and clerks, and in plain view of the public. The judge or clerk having charge of the registry shall then, in a column prepared thereon, in the same line of the name of the voter, mark in ink or with indelible pencil "voted." If such person so registered shall be chal-

lenged or disqualified, the party challenging shall assign his reason therefor, and thereupon one of said judges shall administer to him an oath to answer questions, and he shall be questioned by said judge or judges touching such cause of challenge, and touching any other cause of his disqualification, and may also be questioned by the person challenging him in regard to his qualifications and identity, but if a majority of the judges are of the opinion that he is the person so registered and a qualified voter, his vote shall then be received accordingly. The vote of no one shall be received by said judges whose name does not appear upon the books of registration as a qualified voter. (Ib., sec. 32.)

Sec. 277. Registry in force between general elections.—In any special election occurring in a portion of such city for the purpose of filling a vacancy occurring in a single office there shall not be a revision of the registry. At every election held in such cities between the general registration referred to, the last general registry shall be used, and for that purpose the board of registration shall meet on Thursday of the seventh week preceding such election; the canvassers shall make their canvass on the Friday following; and the board of revision shall hold its session, for revision, on Friday of the fourth week prior to said election. Said sessions shall be held from eight o'clock a. m. until ten o'clock p. m. on each of said days, and names may be added, on the day of registration, or stricken from the register, on the day of revision, in the same way, upon sworn applications, as in the case of a general registration. There may be appeals for registration to the circuit court on Friday and Saturday of the third week before said election. The board of election commissioners shall sit to register absentees or invalids on Wednesday of the first week prior to said election. There shall be no publication of the names of judges and clerks, or of the revised lists. In all other respects the proceedings, forms and requirements are to be observed as provided for general registration. At every election held in such city between the time this act becomes a law and the next general registration provided for herein the registry books of qualified voters in such cities at the last general city or state election, and used in said election as the registry of qualified voters of such cities, and the registry of qualified voters under the various sections of this act providing for registration shall be the registry of qualified voters of such city used and in force for such elections. New books of registry shall be prepared and furnished as provided in this act by said election commissioners for the registration required to be made in every presidential year by this article; and the registry and other books no longer required, or used, shall be kept and preserved in the office of the election commissioners. (Ib., sec. 33.)

Sec. 278. Judges to be peace officers—challengers.—Said judges of election shall have authority to keep the peace and to cause any person to be arrested for any breach of the peace or for any breach of the election laws, or for any interference with the progress of such election or of the canvass [of the] ballots, and it shall be the duty of all officers of the law present to obey the orders of a majority of such judges of election, but less than a majority of such judges shall have no authority and no power to give any order to any such officer. And it shall be the duty of the board of police commissioners of such city to instruct all police officers accordingly. At every registration and election, each of the political parties shall have a right to designate and keep a challenger at each place of registration, revision of registration and voting, who shall be assigned such position inside the polling or registration booth, as will enable him to see each person as he offers to register or vote, and who shall be protected, in the discharge of his duty, by the judges of election. And authority signed by the recognized chairman or presiding officer of the chief managing committee of a party in any such city shall be sufficient evidence of the right of the challenger for such party to be present inside the room where the ballot-box is kept. But in case the challenger does not or cannot produce the authority of such chairman, it shall be the duty of such judges of election to recognize a challenger that shall be vouched for and presented to them by the persons present belonging to such political party or who shall be vouched for by the judge representing such party. The chairman of the managing committee of each political party may remove such challenger appointed by him, and substitute another in his place. Two persons of each political party, represented on the ballot, of good character and standing, shall be admitted, by the judges, into the polling place to be present during the canvass of the votes and the making of the returns, in the same manner as herein provided in regard to challengers. Such challengers and other persons shall be duly registered voters of the precinct in which they act as challengers or watchers, of good character and sober, and shall in no wise interfere with such canvass. (Ib., sec. 34.)

Sec. 279. Vote to be canvassed, when.—As soon as the poll of an election shall be finally closed, the judges of election, in their several precincts, shall immediately, and at the same place of the election poll, proceed to canvass the votes. Such canvass shall not be adjourned or postponed until it shall be fully completed,

nor until the statements herein required to be made by the judges and clerks shall be made out and signed by them. The judges of election shall have the right to station one or more police officers or other peace officers, at such entrance to the room where such canvass is begun or about to take place, to exclude noisy or disorderly persons, and to keep the peace. (Ib., sec. 35.)

Sec. 280. Vote, how canvassed.—The judges of election shall first count the whole number of ballots in the box. If the ballots shall be found to exceed the number of names entered upon each of the poll-books they shall reject the ballots, if any, found folded inside of a ballot; and if the ballots and the poll-list do not agree after such rejection, they shall reject all ballots not numbered, and no ballot not so numbered shall be counted. The ballots so rejected shall be enclosed in an envelope marked "rejected ballots," and return[ed] with the ballot-boxes to the election commissioners; and the ballots or poll-lists agreeing or being made to agree in this way, the board shall proceed to count the votes in the following manner: Said judges shall open the ballots and place those which contain the same names together, so that the several kinds shall be in separate piles, or on separate files. Each of the judges shall examine the separate files which are on, or supposed to be alike, and exclude from such files any which may have a name or any erasure, or in any manner shall be different from the other of such file. One of said judges shall then take one file of the kind of ballots which contain the same name and count them by the tens, carefully examining each name of each of said ballots. Said judge shall then pass the ten ballots aforesaid to other judges, who shall count them in the same manner, and call the names of the persons named in the ten ballots, and the offices for which they are designated, and the poll-clerks shall tally ten votes for each of such persons. When they shall have gone through such file of ballots containing the same names by tens in that way, and when the clerks shall have tallied all the votes by tens for each of said persons, they shall then take up the next pile of ballots containing the same names, and shall count them by tens in the same way, and shall call the names of the persons named in said ballots and the offices for which they are designated, and the clerks shall tally the vote by tens for each of said persons in the same manner. When the counting of each file of ballots which contain the same names shall be completed, the clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed, and when they agree upon the number, one of them shall announce it in a loud voice. The said judges shall then canvass the other kind of ballots which do not correspond, those containing names partly from one kind of ballots and partly from another, being those usually called "split tickets," and those from which the names of the persons proper to be voted for on such ballots had been omitted or erased, usually called "scratched tickets." They shall be canvassed separately by the judges, and each name called out to the clerks and the office for which it is designated, and the clerks making tally of the same. When all ballots are canvassed in this manner, the clerks shall compare their tallies together, and ascertain the total number of votes received by each candidate, and when they agree upon the number, one of them shall announce in a loud voice the number of votes received by each candidate on each of the kinds of ballots containing his name. (Ib., sec. 36.)

Sec. 281. Vote on proposition canvassed, how.—Whenever any proposition is submitted to a vote of the people, and is printed or written upon the same ticket with the names of candidates for an office, the names, together with such proposition, shall be canvassed in the following manner: All the ballots shall be first separated into three piles, the first pile containing all the ballots in favor of such proposition; the second pile containing all the ballots against such proposition; and the third pile containing all the ballots not mentioning such proposition, or being neither for nor against such proposition. Each of the judges shall then examine each pile and see that the separation has been properly made. Then the first pile shall be counted by tens and the result announced to the clerks, who shall tally the same by tens, and so the second pile shall be counted, announced and tallied, and likewise the third pile; and the clerks shall announce the number of votes for, and the number of votes against, such proposition. The ballots for or against any proposition submitted shall always be canvassed, counted and tallied before the names of candidates for any office are canvassed, counted or tallied. If the tally sheets and returns should contain no heading for any proposition submitted, it shall be the duty of the clerks to write into such tally-sheets and returns the headings necessary in order to keep a correct tally and to make a correct and accurate return, and it shall be the duty of the clerks and judges of election to make a true count and correct return of all votes upon any such proposition, and certify the same to the election commissioner, as provided herein in other cases. (Ib., sec. 37.)

Sec. 282. Statement of result of canvass made and certified, how.—The said judges of election shall make two statements of the results of the canvass, one of which shall be written or partly written and partly printed in each of the poll-books used at such election. Each of these statements shall contain a caption stating

the day on which, and the number of the election precinct and the ward, and city, in relation to which such statement shall be made, and the time of opening and closing of the polls of such precinct. It shall also contain a statement showing the whole number of votes given for each person, designating the office for which they were given, which statement shall be written or partly written and partly printed in words at length; and in case a proposition of any kind has been submitted to a vote at such election, such statement shall also show the number of votes cast for or against such proposition, written out or partly written and partly printed in words at length, and at the end thereof a certificate that such statement is correct in all respects, which certificate and each sheet of paper forming part of the statements, shall be subscribed by the said judges and election clerks. If any judge or election clerk shall decline to sign such returns, he shall state his reason therefor, in writing, and a copy thereof signed by himself shall be enclosed in an envelope, which shall then be securely sealed, and each of the judges and each of the election clerks shall write his name across every fold at which the envelope, if unfastened could be opened. And the envelope shall be directed on the outside to the election commissioners. Each set of tallies shall also be signed by the election clerks and judges of election, and shall also be enclosed in an envelope, securely sealed and signed and directed on the outside of envelope to said election commissioners. On the outside of envelope shall be endorsed whether it contains the statement of the votes cast or the tallies, and for what precinct and ward. (Ib., sec. 38.)

Sec. 283. Poll-books to be placed in ballot-box—to be sealed, how.—The poll-books which contain the statement of returns shall be placed in the ballot-box, and the ballot-box shall then be locked and the key removed; whereupon said judges of election shall all write their names upon a slip of paper of sufficient length for the following purposes: Said slip of paper, after the signing of their names thereon by said judges, shall then be pasted over the keyhole of the said box and extending upward to the upper lid of the box and carried for some distance over the top, and it shall be placed in such a way that the signatures of said judges shall extend across the place of the opening of the lid of the box, so that when the box is opened it shall tear such paper and destroy the signatures written thereon, and when the key shall be inserted in the keyhole it will tear the paper so pasted over the keyhole. Such paper shall be fastened with some adhesive material and so as not to permit the removal of such slip of paper without defacing it. (Ib., sec. 39.)

Sec. 284. Disposition of ballots.—The judges shall fold in two folds and string closely upon a string or wire, all ballots counted by them, except those marked "defective," or "rejected," unite the ends of such string or wire in a firm knot, enclose the ballots so strung in an envelope, on which shall be endorsed, in writing or print, the number of the precinct, date on which such election was held, and securely seal such envelope, so that it cannot be opened without breaking the seal, and return said ballots, together with the package containing the ballots marked "defective" or "objected" or "rejected," in such sealed package or envelope to the election commissioners. Two of said judges of opposite politics shall immediately after signing the statement of the result of the canvass and tally sheets and the sealing of the ballot-box, go together to the office of the election commissioners and deliver said ballot-box and the key thereto to said election commissioners, who shall keep the office open until all of said ballot-boxes have been received. Immediately upon receiving said ballot-boxes said commissioners shall give a receipt therefor to said judges, and shall place them properly arranged in the order of precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a vault having a double lock, and said vault shall be locked and keys retained by commissioners of opposite political parties. Said election commissioners shall securely keep said ballot-boxes for twelve months, not opening or inspecting them nor allowing any one else to do so, except upon order of court in case of contested election, or when it shall be necessary to produce them at the trial of any offense committed under this article. At the end of twelve months after said election, said ballots shall be destroyed: *Provided*, that if any contest of the election of any officer voted for at such election, or prosecution under this article shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined. (Ib., sec. 40.)

Sec. 285. Statement and tally-sheet to be delivered to commissioners, etc.—Another judge shall take a statement of the votes cast into his possession, sealed up in an envelope as aforesaid, and one of the clerks shall take a tally-sheet, sealed up in an envelope as aforesaid, and the judge having possession of statement and the clerk having possession of tally-sheet, shall each, before twelve o'clock of the next day after such election, deliver the statement and tally-sheet to the said election commissioners, and take a receipt from them therefor. And it shall be the duty of the said election commissioners to receive the same, and keep safely under lock and key until ordered to be surrendered as herein provided. (Ib., sec. 41.)

Sec. 286. Judges and clerks to be exempt from jury duty.—Every judge or clerk of election shall be exempt from jury duty from the day of his qualification as such until two years after his term of office expires if and so long as he performs his duty as such judge or clerk at every election held in the precinct for which he is appointed from the day of his qualification until his term of office expires; and where a judge or clerk, duly appointed by the board of election commissioners, has qualified and performed his duty as judge or clerk at an election, he shall be exempt from jury service until the next election, and if such second election falls within the term for which he is appointed and he fails to perform his duties thereat, his exemption from jury service shall thereby cease. Any person not regularly appointed by the board of election commissioners, but who shall duly serve as judge or clerk at any election, because appointed to fill a vacancy at the polling place, shall be exempt from jury service for six months thereafter. It shall be the duty of the jury commissioners in all cities subject to this act having jury commissioners, to see that no person is summoned to do jury service during the time for which he is exempt, as herein provided. And it shall be the duty of the board of election commissioners, after each election, to certify to the jury commissioners the names of the judges and clerks who served at such election. (Ib., sec. 42.)

Sec. 287. Disposition of ballot-boxes by commissioners—(penalty for failure to deliver to commissioners.)—The said election commissioners, upon the receipt of said ballot-box and key thereto, shall note the condition of seal or stamp on said box, and enter the fact touching the same upon a book kept by them, together with the name of the judge who returns such ballot-box; he shall thereupon open said ballot-box and remove the poll-books containing the returns of the votes cast, and note upon the book their condition, and put them in a secure place under lock and key, to which the public, in no event, shall have access. (Ib., sec. 43.)

Sec. 288. Abstract of votes, how made—copy to be sent to secretary of state.—Within eight days after the close of such election such board of election commissioners shall publicly open all the returns aforesaid and shall make abstracts of statements of all the votes for governor and lieutenant-governor on one sheet; all votes for other state officers on another sheet; all votes for presidential electors on another sheet; all votes for judges of the supreme court on another sheet; all votes for judges of the court of appeals on another sheet; all votes for members of congress and for senators and representatives to the general assembly on another sheet; all votes for county officers on another sheet; all votes for city officers on another sheet; all votes for any other officer on a separate and appropriate sheet; all votes for and all votes against any proposition which may be submitted to a vote of the people on another sheet. It shall be the duty of such board to canvass, add up and declare the result of every election held within the boundaries of such city, and transmit an abstract of the same to the secretary of state, or other proper officer, as required by law; and such abstracts or results, and a certified copy thereof, shall be treated everywhere within the state, and by all public officers, with the same force and effect as the abstract of votes now authorized by the laws of the state in such cases made and provided. (Ib., sec. 44.)

Sec. 289. Commissioners to make out and deliver certificates of election.—The election commissioners shall make out a certificate of election to each person having the highest number of votes for the several offices voted for, including aldermen and members of the municipal assembly, and deliver such certificate of election to the person entitled to it on his application. (Ib., sec. 45.)

Sec. 290. Procedure in case fraud in returns is suspected.—If, upon opening the various returns so made, there shall be anything to indicate that a change has been made in such returns since signing the same by the judges and clerks, or any fraud in any respect touching such returns, it shall then be the duty of the board to have all the tallies opened and examined. If there shall be any doubts as to the genuineness of such returns for any precinct, and as to the actual vote as originally returned, and the truth respecting the same remain uncertain, it shall be the duty of said canvassers to examine any person or persons who were present at the time of the proclamation so made by the judges of election in such precinct, about which any doubt may arise, and the board shall be permitted to place such parties or witnesses under oath and examine them touching the same, and it shall be their duty to cause such parties who were present at the time of such proclamation to come before them, and a subpoena may be issued by the election commissioners compelling any such witness to come before such board and give their evidence touching the matter; and it shall be the duty of said board to declare the result of the vote in any such precinct in regard to which any question arises in the vote, in the same manner as it was proclaimed by the judges of election after the canvass by them in such precinct. The result, so declared, shall be binding and conclusive, except in case of election contests. (Ib., sec. 46.)

Sec. 291. Compensation of commissioners, secretary and clerks—expenses paid by city.—In all cities not within counties such election commissioners, secretary of the board, judges and clerks of election and registration and clerks and as-

sistants employed by the board of election commissioners shall be paid by the city. The members of said board of election commissioners shall each receive a salary of three thousand dollars a year, and the secretary of the board a salary of two thousand dollars a year, all payable monthly. The assistants and clerks employed by the election commissioners shall each receive a salary of four dollars per day for the time actually employed, payable monthly. All office and other expenses incurred by said board of election commissioners, and all office and other expense and all costs and expenses of registration and election in such cities shall be paid out of the city treasury. All printing, binding, books, stationery, etc., shall be paid for in the same manner and contracted for by the board of election commissioners. (Ib., sec. 47.)

Sec. 292. Compensation of judges and clerks of election, etc.—The judges and clerks of election and the members of boards of registration and clerks, in cities in this state having 300,000 inhabitants and over, shall each receive five dollars a day, for pay and compensation for their services. When judges or clerks of election shall be required to call at the election commissioners' offices for ballot-boxes, registration books, or for any other purpose, on any day except on election day, they shall be allowed \$2.50 for said services. Said pay and compensation of judges and clerks of election, boards of registration and clerks shall be paid by such city, and the municipal assembly thereof is hereby required to make the necessary appropriation for such payments. (Ib., sec. 48; amended Session Laws 1907, p. 112.)

Sec. 293. Majority may act for board.—The act of a majority of such board of election commissioners shall in all cases arising under this article be considered as the act of said board of election commissioners.

Sec. 294. Board to audit accounts.—Said board of election commissioners shall audit all the claims of the judges of election and of registration and all other claims, expenses and accounts under this article, and shall draw a warrant therefor upon the proper officer. (Ib., sec. 49.)

Sec. 295. Repealing inconsistent acts.—Article VIII, chapter 102 of the Revised Statutes of Missouri of 1899, and all acts amendatory thereto is hereby repealed, and all acts or parts of acts inconsistent with this act, are hereby repealed, in so far as they are inconsistent therewith. (Ib., sec. 50.)

ARTICLE III.

Primary Elections (*in so far only as not governed by the new primary election law of 1907, which latter applies to all elective offices, but not "special elections to fill vacancies, nor to county superintendents of schools, to city officers not elected at a general state election, and to town, village and school district officers*").*)

Sec. 296. Short title and application of act.—The short title of this act shall be the "Primary election law." Except as otherwise herein provided it shall be controlling: (1) On the methods of the registration of voters in cities in this state which now have, or which may hereafter have, over 300,000 inhabitants according to the last preceding census; (2) on the conduct of primary elections in such cities; (3) on party conventions in such cities, or for any political subdivision thereof; (4) on the choice in such cities, or in any political subdivision thereof, of the members of political committees. (Session Acts 1901, p. 149. Primary Election Law, sec. 1—i.)

Sec. 297. Definition and construction of act.—The terms used in this act shall, for the purpose of this act, have application as provided in this section, unless other meaning is clearly apparent from the language of the context or manifest intent. The term "general committee" shall apply to any committee chosen in pursuance hereof, or of the rules and regulations of a party, to represent the members of such party in any such city; and the term "committee" shall apply to any committee chosen in like manner to represent the members of a party in any political subdivision of such city. The term "convention" shall apply to any assemblage of delegates of a party in and for any such city, or in and for any political subdivision of such city, duly convened for the purposes of nominating candidates for public office, electing delegates to other conventions, electing members of political committees, or transacting any other business relating to the affairs of a party. The term "primary election" shall apply to any election by the members of a party duly convened in any such city, or in any political subdivision of such city, of delegates to a convention, or of party committeemen, or of candidates for public office, or to any such election upon any questions submitted to the vote of a party. The term "primary period" shall apply

*The new primary law therefore in nearly all cases supersedes the primary law as given in this article. The provisions of said new act of 1907 were enacted too late to appear in this revision in numerical order, but they are set out in full hereinafter, and designated as Article IV of this Chapter.

The provisions of this article III, following next hereinafter, are the acts of 1901, pages 149-165, which repealed prior inconsistent acts. (For the old law see Mun. Code, pages 121-123). Primaries were regulated by art. 4, ch. 102 R. S. 1899, in so far as the provisions of the article are not altered by the St. Louis primary act: *Sieber vs. McCaffery*, 108 Mo. App. 49, 56. The board acts in an administrative and not judicial capacity: *Kalbfell vs. Wood*, 193 Mo. 687.

(i) As stated in the preceding note the application of this act is, since the enactment of the primary law of 1907, very limited.

to the time intervening from the date of the election of state officers to the date of the next subsequent election of the same officers. The term "party" shall apply to any political organization which, at the last preceding election, polled at least 10,000 votes for governor, or for supreme judge if the governor was not elected at such election. No organization or association of citizens solely for the election of city officers shall be deemed a political party within the meaning of this act, and membership in any such organization or association shall not prevent an elector from voting and acting as a member of a political party. (Ib., sec. 2.)

Sec. 298. **Primary registration books to be prepared.**—The election commissioners in all cities in this state to which this act is applicable, shall cause to be prepared, within ninety days after this act shall become a law and be in force, original primary registration books to the number of two for each election precinct. Such registration books shall be so arranged that the names of all the electors of the election precinct may be inscribed therein alphabetically; there shall be fourteen columns on each page; the first for the surnames of the electors; the second for the christian names of the electors; the third for their residence addresses; the fourth, fifth and sixth, for the words at the top of page, "1st official," "2nd official," "3rd official," respectively, and over same the word "Democratic;" the seventh, eighth and ninth, for the words at the top of page, "1st official," "2nd official," "3rd official," respectively, and over the same the word "Republican;" the tenth and eleventh for the word at the top of page "unofficial;" said last eight columns shall be of sufficient width to permit the word "voted" to be plainly written therein; the twelfth column shall be of sufficient width to permit the word "challenged" and date thereof to be plainly written therein; the thirteenth column shall have at top of page the words "oath administered;" and the fourteenth column shall be of sufficient width to permit the elector to plainly sign his full name. (Ib., sec. 3.)

Sec. 299. **Form of registration sheet.**—The form of each registration sheet in the primary registration books shall be as follows, viz.:

WARD.....

PRECINCT

[illegible]

Sec. 300. Elector shall sign registration books.—When an elector shall have been registered as a qualified voter in any precinct in such city, either at the office of the election commissioners, or in any such precinct on any day of precinct registration, his name and residence address shall be entered at the proper place by the election commissioners, or judges at precinct registration, in the two original primary registration books for that precinct, and such elector shall forthwith sign his name in the column provided therefor. In case an elector shall be unable to sign his name, he shall make his mark, and the same shall be evidenced as like signatures are by law in sealed instruments. If an elector shall refuse to sign his name as above provided, his registration for primary purposes shall be deemed void, and the registration officer, or officers, shall forthwith strike his name from such primary books by running a red line with pen and ink through his name. Nothing herein, however, shall be construed to prevent such elector, being a qualified voter for other than primary purposes, from subsequently appearing before the proper registration officers, and, by complying with provisions above required, having his name duly registered in said primary books, and becoming an elector for primary purposes. (Ib., sec. 5.)

Sec. 301. Registration provided for.—No elector shall be permitted to vote at any primary election unless he be a registered voter in the precinct at the time he offers to vote, and at the time actually resides in such precinct at the number designated in his registration. If an elector shall be duly registered for primary purposes in an election precinct in such city, and shall thereafter move his residence out of such precinct to another precinct in the same city, said elector may, after he shall become a qualified voter of such last named precinct, have his primary registration changed to conform thereto, but if such re-registration is made at the office of the election commissioners, the officer making such re-registration shall forthwith strike the name of such elector from the primary books in which he was last before registered by running a red line through the same with pen and ink. If such re-registration for primary purposes be made by the judges on any day of precinct registration, said judges shall, over their proper signatures, certify to the re-registration of such elector, giving the ward, precinct and residence address from which he was last before registered in the primary books, on blanks provided therefor, and return the same in sealed envelopes, with the primary books to the office of the election commissioners, and the election commissioners shall forthwith cause the name of such elector to be stricken from the primary books in which he was last before registered by running a red line through the same with pen and ink. If an elector shall move from one place in a precinct to another place in the same precinct, he must re-register in the manner above provided before he can vote at any primary election. (Ib., sec. 6.)

Sec. 302. Registration suspended, when.—No primary election shall be held in any city in this state to which this act is applicable on any day of precinct registration, nor within five days preceding, or following, any such day. The election commissioners in any such city shall suspend all primary registration on the day of primary election, and during the five days preceding and following the same. Any elector who shall register and become a qualified voter in any precinct during any suspension of primary registration shall have the right to subsequently register for primary purposes by complying with the provisions of this act governing primary registration.

Sec. 303. Commissioners to attest registration books.—Within three days prior to any primary election held under the provisions of this act the election commissioners in such city shall certify, over their own proper signatures, in each of the two primary registration books, in each precinct in such city, or district, in which such primary is held, that the primary registration books for such precinct contain a full, complete, and correct list, alphabetically arranged, of all the electors in said precinct who are registered for primary purposes, and that all of said electors were duly registered, and are *bona fide* residents of such precinct, and as such, entitled to vote as they verily believe, and said certificate shall be attached to, and made a part of said primary registration books. (Ib., sec. 8.)

Sec. 304. Registration books delivered to judges, when.—The original primary registration books shall be used at all official primary elections, and shall be delivered by the election commissioners to the proper judges of primary election within twenty-four hours before the opening of the polls on each official primary day, and shall be returned by the judges to such election commissioners forthwith, after the completion of the canvass and count of the votes cast at such primary. (Ib., sec. 9.)

Sec. 305. Unofficial primary held, how.—Unofficial primary elections may be held by any political organization or association of citizens in any such city, and such organization or association shall have the right to use the primary registration books thereat, by duly notifying the election commissioners of such city of their wish to use said books, and in all respects complying with the provisions of this act governing the filing of delegations, and defraying the expense of such primary. (Ib., sec. 10.)

Sec. 306. Wards divided into primary election districts.—The election commissioners shall within thirty days after this act shall take effect and be in force, divide every ward in cities to which this act is applicable, into two primary election

districts, each of which shall consist of two contiguous districts, composed of precincts lying compactly together and as nearly as may be, so that each primary district shall contain the same number of voters registered for primary purposes. There shall be one polling place in each of such primary districts, which shall be designated and provided at public expense by the election commissioners, and such polling place shall be, as nearly as may be, centrally located in such primary districts. Whenever the ward lines of any ward in such city shall be changed in any manner, said election commissioners shall, within thirty days after such change, again divide each of said wards so changed into two primary districts in the manner above provided. (Ib., sec. 11.)

Sec. 307. Duties of political committees—of commissioners.—Whenever the general committee representing a political party in any city to which this act is applicable, or the committee representing a district in such city, shall officially call a primary election, at which the electors belonging to such party in such city, or district, shall select; (1) delegates from the various wards in such city, or district, to any convention of such party to be held for the purpose of nominating a candidate, or candidates, for public office; (2) to nominate, by direct primary vote, a candidate, or candidates, for public office; (3) to select, either by direct vote, or through delegates elected at such primary, the representative of the managing committee of such party from any district or ward in such city, the chairman of such committee shall certify and deliver to the election commissioners a statement of the conventions, committees, and offices for which delegates, members or candidates, as the case may be, are to be elected thereat, and the number of delegates to conventions apportioned among the various wards in such city, or district, and members of the committees to be elected in each ward, or district. The election commissioners shall forthwith prepare a notice of such official primary election, and shall publish such notice for at least three days prior to such primary election in at least one newspaper having a general circulation in the city in which such primary is held of the political faith of the party calling such primary. Such notice shall specify the day of such primary election, the hours during which it shall be held, the location of each polling place, the election precincts whose electors may vote at each such polling place, the name of the party whose primary election will be held thereat, and the conventions, committees and offices for which delegates, members, or candidates, as the case may be, will be voted for thereat. Such notice shall also specify the number of delegates to which each ward in such city, or district, is entitled, in case a delegate convention is called. All official primary elections, held in pursuance of this act, shall be open from one o'clock in the afternoon to eight o'clock in the evening. All other primary elections, if any, shall be open for not less than three hours, commencing not earlier than four o'clock in the afternoon, and not later than eight o'clock in the evening. Notice of all unofficial primary elections shall be given in the same manner as in case of official primary elections, except that such notice shall be given by the proper party officers, and shall not be at public expense. Unofficial primary elections shall be held in such places in the various primary districts in such city, or part of city, as shall be designated by the organization or association of citizens calling the same: *Provided, however*, that the election commissioners may, at the request of such organization or association, combine the two election districts in any ward and provide but one polling place therein. (Ib., sec. 12—j.)

Sec. 308. Forbidden to hold primaries, where.—No primary election shall be held in a saloon or drinking place, or in any room connected therewith, or in any room which is not on the first floor of the building of which it forms a part, or that is not directly and easily accessible to the street. The election commissioners shall post, and keep posted during such election at or near the entrance to the room where the primary election is held, so that said notice is clearly visible from the street, a conspicuous notice, calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules of the organization or association calling the same. (Ib., sec. 13.)

Sec. 309. Delegations filed, when—expenses, how paid.—Whenever an official, or unofficial, primary election is called under the provisions of this act, the election commissioners shall fix a time within which delegations may be filed in their office, which in no case shall be less than fifteen days from the date of said call, and the party, committeeman, or person, filing such delegations, shall pay into the office of said election commissioners the sum of twenty dollars for each delegation filed to defray the expense of conducting such primary. Said commissioners shall pay, or cause to be paid, out of the funds thus created, the judges and clerks officiating at such primary within ten days thereafter, and any balance of such fund remaining over shall be by said commissioners paid into the city treasury. No delegation shall

(j) The mode of calling nominating conventions is prescribed by this section. One nominated by a convention where the election commissioners have not published notice of the primaries as required by this section, is not entitled to a place on the ticket: *Sieber vs. McCaffery*, 108 Mo. App. 49, 56.

be received and filed from any ward in such city, or district in such city, except the petition therefor be duly signed by each elector whose name is submitted for delegate therein, and the same be endorsed by at least twenty qualified electors of such ward, evidenced by their signatures to a petition therefor, giving their residence address, and such petition shall be certified to by the committeeman or person filing the same, who shall make oath that the same is offered *bona fide*, and that the delegates named therein, and the petitioners signing the same, are actually resident qualified voters of the ward for which said delegation is offered, and that all said delegates and petitioners are members of the political party whose primary is to be held under the call for such primary, and that no name appears on the list of delegates submitted therein, which appears on any other delegation filed in said ward, as he verily believes. The election commissioners shall not receive and file any subsequent delegation from any ward to be voted for at such primary which contains the name of any delegate whose name appears on the list in any former delegation. Whenever a delegation is filed from any ward under the provisions of this act the same shall not be withdrawn for any reason, and it shall be the duty of the election commissioners to place the same on the official ballot to be voted for at such primary. All changes in the personnel of any delegation shall be made within three days from the last day fixed for filing delegations, and shall be only made at the written request of the person whose name is to be withdrawn, or at the written request of a majority of the electors composing such delegation, and the person filing such delegation shall thereupon substitute in each case of withdrawal the name of some other qualified elector residing in the ward in which such change is made. The party, committeeman, or person, filing such delegation shall, at the time he files the same, submit to the election commissioners the names of three resident qualified voters of each primary district in the ward for which such delegation is filed, for primary election judges in such districts, together with the names of three resident qualified voters of each primary district in such ward, for clerk and challenger. All the names thus submitted must be of electors belonging to the political party for which such primary is held, and must be reputable citizens actually residing in the primary district in which they are to serve. If there be but two delegations filed in any ward, the election commissioners shall select two judges out of the list submitted for judges for each delegation, and one clerk and one challenger out of the list submitted therefor. If there be more than two delegations filed in any ward, the election commissioners shall select from the list submitted with each delegation, one judge, one clerk, and one challenger, to represent the same at such primary. The judges and clerks thus selected shall qualify before a member of the board of election commissioners, or the secretary of such board, in the manner required of judges and clerks who serve at general state elections. If any judge, clerk, or challenger, thus appointed and qualified, shall fail to appear at the poll at which he was selected to serve in any primary district, within five minutes after the time fixed for opening the polls thereat, the committeeman, or person who submitted his name, or if not present, some member of the delegation in whose behalf his name was submitted, shall choose another resident qualified voter in such district, belonging to said party, who shall qualify before one of the judges present in the manner provided by law in such cases at general elections, and shall serve in the place of such absentee. All judges and clerks who serve at primary elections under the provisions of this act shall receive as compensation therefor the sum of three dollars per day. (Ib., sec. 14—*k*.)

Sec. 310. Proceedings when candidates for office are nominated by primary.

—If the general committee representing a party in any city to which this act is applicable, or the committee in any district in such city, shall determine to nominate a candidate, or candidates, for public office, or committeeman for said party, by direct vote of the electors, the chairman of said committee shall notify the election commissioners of such fact, stating what nominations are to be thus made, the date fixed for such primary election, and said election commissioners shall forthwith make publication thereof as hereinbefore provided in case the call is for a delegate convention. All candidates submitting their names for nomination for public office at the primary

(*k*) Any twenty qualified voters (in a case arising under the act of 1897) of a ward, members of the party ordering the primary, may by proper petition and the required deposit, have the delegates' names placed on the ballots; and when the delegation is duly recognized by the board it is duly nominated and each member entitled to be voted for and a second petition by twenty other voters under another caption cannot be filed which has the same persons on its delegation, and which would, if recognized, give the right to present the names of additional clerks and judges to the election commissioners: *Johnson vs. Jones*, 82 Mo. App. 204.

Under the same primary law in force when the above case was decided (R. S. 1899, secs. 7146-7161) it was held that mass-meetings held for the election of delegates to a congressional convention were not excluded as a lawful method, the law only requiring that if primaries were held, that then they be held in the manner designated: *State ex rel. vs. McCaffery*, 160 Mo. 317 (holding also that it made no difference that a different method had first been determined on by the committee if such action be properly rescinded by a full quorum of the committee).

thus called, shall file with the election commissioners within the time fixed to file delegations as provided in section 12 of this act, a petition duly signed by at least one hundred qualified electors of the city, or if from a district in such city, then at least twenty-five qualified electors of said district, and such petition shall state the full name of each candidate, his residence address, the office for which he seeks a nomination, and the political subdivision, city, or district, or ward in which he seeks such nomination. After all persons who desire to submit their names as candidates for nomination shall have filed their petition as above provided, the election commissioners shall apportion among such candidates, as nearly as may be, the expense of conducting said primary, taking into account only the sums of money necessary to pay the per diem of the primary judges and clerks, and all candidates thus submitting their names for nomination shall within three days after the last day fixed for filing their petitions, pay into the election commissioner's office, the amount assessed against them as their just proportion of such expense. Said election commissioners shall not place the name of any candidate for nomination on the official primary ballot who shall fail to fully comply with the provisions hereof. The judges, clerks and challengers, who serve at such primary shall be selected by the election commissioners from lists submitted by the managing committee of the party holding the same. (Ib., sec. 15—1.)

Sec. 311. Ballots.—If the call for such official primary election shall require nominations to be made by a delegate convention, the election commissioners shall prepare an official ballot on white paper of good quality, which shall contain the names of each delegation in any ward, grouped together, and side by side. Over each delegation shall be printed a caption designating the same, which in no case shall consist of more than three words. If the official call for such primary shall require candidates to be nominated by the direct vote of the electors, the election commissioners shall group the names of all the candidates for a given office together, with a caption above each set of candidates, designating the office for which they seek nomination, and all of said separate groups of candidates shall be printed on white paper of good quality, and in a single column. All ballots shall be printed plainly in good sized type and with black ink, and all printing on such ballots shall be of uniform size, excepting the captions thereon. After such official ballots for such primary election shall have been printed, the election commissioners shall securely keep the same and deliver to the judges of each primary district within twenty-four hours preceding the time fixed for opening the polls at said primary, a sufficient number of said ballots to accommodate the electors in each primary district. Such ballots shall be by said election commissioners placed in the ballot-boxes, which boxes shall be securely locked, and the ballots and boxes shall be thus delivered to said judges. The judges of primary election shall not deliver to any elector, or other person, any of the ballots, until after the opening of the polls, and shall then deliver but one ballot to any elector, who shall vote the same, or return it to the judges before leaving their presence. In case an elector shall require a second ballot, he shall return the first one given him, and the same shall be by the judges openly destroyed before a second ballot shall be given him. All unvoted ballots, except those destroyed as above provided, shall be returned to the office of the election commissioners in the ballot-box not containing voted ballots, and the same shall be securely locked. (Ib., sec. 16.)

Sec. 312. Registration books open to inspection.—The primary registration books used at primary elections shall be returned with the ballot-boxes, keys thereof, and the registration books, together with the affidavits, certificates and other papers in this act provided, and said registration books shall for thirty days thereafter, at all reasonable hours, Sundays and public holidays excepted, be open to the inspection of any citizen; and any elector who shall have voted at the primary election held by one party on any primary day shall not be permitted to vote at a primary election held by any other party during any one primary election period. (Ib., sec. 17.)

Sec. 313. Opening of polls, and voting at official primary elections.—**Subdivision 1.** The election commissioners in cities to which this act is applicable, shall within twenty-four hours prior to the time fixed for opening the polls at an official primary election, deliver to one of the judges appointed and qualified as required in this act in each primary district, two of the ballot-boxes used at general state elections, together with the keys to said boxes. Such ballot-boxes shall be securely locked, and one of them shall contain the official ballots for such primary district, as required in section 14 of this act, and said ballot-boxes shall not be opened until the hour of one o'clock p. m. on the day of such official primary. At said hour said boxes shall be opened, and the one found not to contain the ballots as aforesaid shall be publicly examined, and nothing shall remain therein. After such last named ballot-box shall be found to be entirely empty, the same shall be closed and securely

(1) In selecting the judges, clerks and challengers (under the last sentence of this section) the election commissioners do not act in a judicial capacity, and the writ of prohibition will not lie against them: *Kalbfell vs. Wood*, 193 Mo. 675, 687, 689.

locked, and the ballots of all electors voting at said primary shall be deposited therein. The judges shall then declare the primary opened, provided all of the judges and clerks appointed for such primary district are present. If any judge or clerk so appointed shall be absent, his place shall be filled as provided in section 12 of this act. When such vacancies, if any, shall be thus filled, the judges shall declare the primary opened. When any elector shall present himself to the judges, and declare his desire to vote, he shall announce his name, and residence, and if he shall be found to be duly registered in the primary registration books in his precinct, the judges of election, or a member thereof, shall deliver to him, unfolded, an official ballot. Thereupon and before voting, the elector shall retire into one of the booths of the polling place. Immediately upon entering such booth, the elector shall prepare his ballot by striking out with indelible pencil which shall be provided by the election commissioners, all but one of the delegations on the official ballot. The elector may strike out any name on the remaining delegation, and insert in lieu thereof any name appearing on any delegation stricken out. If the purpose of such primary is to nominate candidates by direct vote of the electors, each elector, on receiving his ballot in the manner above provided, shall retire into one of the booths and prepare his ballot by striking out all names on his ballot except the names of the candidates for whom he wishes to vote, but such ballot, when so prepared, shall not contain the names of more than one candidate for a given office. The elector shall, upon leaving such booth, be permitted to vote by delivering to one of the judges the ballot thus by him prepared, but the same shall be so folded that none of the printed or written matter on the inside thereof shall be visible. If any elector shall be unable to read or write, he may publicly request one of the judges of election to enter the booth with him and assist in preparing his ballot, but said judges shall alternate in rendering assistance to electors requesting the same. The ballot thus prepared shall be folded as above provided before it is delivered to the receiving judge. The judge to whom such ballot is delivered shall, unless the right of the elector offering to vote shall be challenged, at once and in the presence of the elector deposit the ballot in the proper ballot-box, and one of the judges of election shall immediately, in the presence of such elector, enter upon the poll-books in the proper column opposite his name the word "voted." If any challenger officiating at said primary polling place, or any judge or clerk officiating thereat, shall challenge the right of any elector to vote at such primary, the person making such challenge must state his grounds therefor, and one of the judges shall immediately, in the presence of such elector, enter in the proper column in the primary registration books the word "challenged," and the date thereof. Such challenge must be made before the ballot prepared by the elector shall have been deposited in the ballot-box. In case the right of an elector to vote be challenged, one of the judges of such primary shall forthwith put to him an oath or affirmation to answer truly such questions as shall be put to him, and he shall be allowed to vote if, and only if, he shall make such oath or affirmation, and shall answer in the affirmative each of the following questions: "Are you.....?" (using the name which he has given as his name). "Do you reside at, and is such your present and only home?" (giving the address that he has given as his residence). "Are you a registered and qualified voter of the election precinct in which you now reside?" "Are you a"? (giving the name of the party holding the primary). If such elector shall make oath that he will truly answer such questions, and shall answer in the affirmative each of the questions above given, one of the judges shall immediately enter, in the proper column in the primary registration books, in the presence of the elector, the words "oath administered," and the ballot of such elector shall then be received and deposited in the ballot-box: *Provided, however,* that any challenger, judge, or clerk, making challenge of the right of such elector to vote may require a further identification of such elector by comparison of his signature, and in such case the judges shall require the elector to sign his name on slips provided therefor made of white paper and of good quality, and the judges shall thereupon compare the signature thus written by such elector with the signature opposite the name on which such elector offers to vote on the original primary election books. If the judges after making comparison shall believe that such challenged elector is entitled to vote, they shall receive his ballot and deposit the same in the proper ballot-box, and one of the judges shall immediately enter in the proper column in the primary registration books, in the presence of such elector, the word "voted." If such elector shall fail in any way to comply with the above provisions he shall not be allowed to vote at such primary. Each ballot shall have written on the back thereof the initials of at least two of the judges before the same is offered to the elector, but such ballot shall not be marked for identification in any other way. No person shall cast more than one ballot. The judges shall declare the primary election closed promptly at the hour of eight o'clock p. m. on such primary day.

Subdivision 2. From the time of the opening of the polls until the result of the canvass of the votes cast thereat shall have been announced, and the official state-

ment of such canvass shall have been duly signed, the ballot-box and all ballots shall be kept within the polling place. No person shall be admitted within the polling place during such period, excepting primary election judges and clerks, and duly authorized watchers or challengers, except persons duly admitted for the purpose of voting, officers admitted by the judges to preserve order or enforce the law, and persons admitted under the provisions of subdivision 3 next following.

Subdivision 3. Watchers, not exceeding one for each election district, may be appointed by any political committee, and by two or more persons whose names are upon any delegation or ticket to be voted for at such primary election by direct vote. Such watchers may be present at such polling place and within the same from at least fifteen minutes before the opening and examination of the ballot-boxes at the opening of the polls at such primary election until such primary is declared open by the judges; said watchers shall then retire from the polling place, but shall have free communication with the challengers therein, and when the polls are declared closed by the judges said watchers may re-enter the polling place and there remain until after the announcement of the result of the canvass of the votes cast thereat and the signing of the statement thereof by the judges. Electioneering shall not be allowed within any polling place, nor shall it be allowed within fifty feet of the door through which electors desiring to vote shall enter. No police officer, or deputy sheriff, or other peace officer shall remain with any polling place except when called in by one of the judges, and then only so long as may be necessary to quell actual or threatened breaches of the peace, or enforce the law. Any candidate being voted for for nomination for public office at any primary may be his own watcher if he so desires.

Sec. 314. Canvass of votes.—Subdivision 1. As soon as the polls at any official primary election shall close the judges of election shall forthwith publicly canvass and ascertain the result thereof, and they shall not adjourn or postpone the canvass until it shall have been fully completed. All questions touching the validity of ballots or their conformity with the provisions of this act shall be determined by said judges. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public, and in plain view of the watchers representing the parties as hereinbefore provided. The judges shall proceed to canvass the vote by counting the total number of ballots found in the box to have been voted, and comparing the number of ballots so found to have been voted with the number of electors marked "voted" on the original primary registration books. They shall then proceed to count the number of votes received by all persons voted for by direct vote of the people for any office, and make out a statement which shall be signed by them showing the total number of votes cast for each such person running for a particular office named and shall certify the result over their own signatures to the election commissioners immediately after such canvass is completed. In case the purpose of such primary shall be to elect delegates to a political convention, said judges shall first verify the number of ballots voted in the ballot-box with the number of electors marked "voted" on the original primary registration books, and they shall thereafter canvass the number of votes cast for each person whose name is voted for at such primary for delegates to any convention, and immediately certify to the election commissioners over their own signatures the names of all persons voted for as delegates and the number of votes cast for each. If two or more ballots shall be found in the ballot-box so folded together as to present the appearance of a single ballot they shall be destroyed, if the whole number of ballots in such box exceed the whole number of electors marked "voted," as shown by the registration books, and not otherwise. If any ballot shall be rejected as void, the reason for such rejection shall be written on the back thereof by one of the judges, or by the clerk of election at the direction of one of the judges. All ballots returned as void shall be secured in a separate sealed package, which shall be endorsed on the outside thereof with the names of the judges, the designation of the election district and the ward, and the number and kind of ballots contained therein. Such package shall be filed by the judges of election, together with the original statement of the canvass, with the election commissioners.

Subdivision 2. Immediately upon the completion of such canvass the judges in each primary district shall make public oral proclamation of the result thereof, and shall make a written statement of such result for such primary district in said ward, and also a duplicate thereof, which shall be known as the duplicate statement. Immediately after the completion of such statements, the judges shall file the original thereof with the election commissioners, together with all ballots marked "void" as hereinbefore provided and shall post the duplicate statement in a conspicuous place in said polling place, and it shall be unlawful for any person or persons to in any way tear down, or remove, or deface, or displace, or destroy said duplicate statement so posted, for three days after the date when such primary election is held.

Subdivision 3. At all reasonable times any elector shall have reasonable opportunity to make a transcript of such statement or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the

result of the primary election, so far as he is concerned, in any one or more primary districts in such city. After the close of the canvass of the votes at primary elections, the ballots cast thereat except those rejected as void, shall be placed in one of the ballot-boxes, which at the time shall be empty, and such ballot-boxes shall then be securely locked and sealed, and shall be returned to the election commissioners from whom such boxes were received, who shall safely keep the same; subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after the primary election, when the ballots shall be removed and, without examination, be destroyed.

Subdivision 4. The election commissioners shall forthwith proceed to canvass the statements so filed, and shall forthwith declare the results of such primary election, which result shall be entered of record in the office of such commissioners in a book to be provided therefor, which book shall be open at all reasonable times to the inspection of the public. In case the purpose of said primary shall be to elect delegates to any political convention, the election commissioners shall issue certificates duly signed and sealed, certifying to the election of each delegate who is entitled to admission as a delegate to the convention, as shown by the results of said primaries, and such certificate so held by such delegate shall entitle him to a seat in such convention and to participate in the preliminary organization thereof. In case the purpose of said primary is to vote for the nomination of a candidate or candidates for public office, or for committeemen of any political party, by direct vote of the people, the election commissioners shall issue a certificate to the person having received the highest number of votes for any office in the city if such primary is confined to the entire city and in a district if confined to a district, and in a ward if confined to a ward, and such certificate so issued, signed, sealed and delivered to such candidate shall be *prima facie* evidence of his nomination for the office therein named. (Ib., p. 159, sec. 19.)

Sec. 315. Judges and clerks to sign returns.—No judge or clerk of primary election shall, without reasonable cause, refuse to join in signing and certifying, with such objections as he may wish to note, the returns of any primary, or in any way interfere with the returning to the board of election commissioners of any ballots, books, lists, papers and boxes pertaining to such primary. (Ib., p. 161, sec. 20.)

Sec. 316. Committees and rules and regulations of parties.—**Subdivision 1.** Each party shall have a general committee for each county to which this act is applicable, and the city of St. Louis shall be construed as a county for the purposes of this act. Any party may also have committees in and for such other political subdivisions of such county or cities as the rules and regulations of such party may prescribe. All members of general committees, including congressional, and senatorial district committees, chosen in and for any city or district to which this act is applicable, shall be elected biennially at the primary elections on the day of primary for nominating candidates, or electing delegates to delegate convention to nominate candidates for circuit judge, sheriff, and other county officers: *Provided, however,* that in all cities and counties to which this act is applicable, there may be called a primary election prior to the first official primary day held under the provisions of this act, at which there may be elected members of all political committees for such cities, or political subdivisions thereof, which primary election shall only be called by authority of the now existing political committees of such cities. In case a primary or primaries shall be called for the purpose of electing such committeemen to represent any political party prior to first official primary day under the provisions of this act, such special primary election so called shall be subject to all the provisions of this act and shall be conducted under the provisions of this act, except the expenses thereof shall not be paid as herein provided for the payment of the expenses of official primaries.

Subdivision 2. The rules and regulations of parties and of the conventions and committees thereof shall not be contrary to or inconsistent with the provisions of this act, or of any other law of this state, and shall not be amended except upon reasonable notice. Every political committee shall, within ten days after its organization, file with the election commissioners a certificate specifying the names and addresses of its chairman and secretary. If any change shall thereafter be made as to either of said officers, a like certificate shall be filed with said commissioners. (Ib., sec. 21.)

Sec. 317. Conventions.—The delegates to every party convention in and for any city to which this act is applicable, or district in such city, shall be apportioned among the wards in such city, or district, as nearly as possible upon the basis of the number of votes cast therein for the party candidate for governor at the last preceding general election, or for supreme judge, if the office of governor was not filled at such general election. If the boundaries of any such ward or district shall have been changed since the last preceding general election, the party vote for governor or supreme judge, at such election within the limits of such newly constituted ward or district shall be estimated as closely as possible, and the apportionment of delegates shall be made in accordance with such estimate. The room designated for the meet-

ing place of any convention shall have ample seating capacity for all delegates and alternates. Every convention shall be called to order by the chairman of the committee from whom the call originates, or by a person designated in writing for the purpose by such chairman, and such chairman or person so designated shall have the custody of the roll of the convention until it shall have been organized. No convention shall proceed to the election of a temporary chairman or transact any business until the time fixed for the opening thereof has arrived and at least a majority of the delegates named in the official rolls shall be present. The roll call upon the election of a temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention: *Provided*, a majority of the delegates are present. The temporary chairman of the convention shall be chosen on a call of the roll. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and the declaring of the result thereof. The committees of a convention shall be appointed by the convention, or by the temporary chairman, as the convention may order. Unless the convention shall otherwise order, the permanent chairman shall be chosen on roll call. The permanent officer shall keep the records of the convention and within forty-eight hours after the adjournment thereof, shall certify and file the same in the office of the election commissioners. Before entering upon their duties, the temporary and permanent chairman of every convention, and the chairman of any committee on contested seats therein, shall respectively take an oath to faithfully perform the duties of their offices, which oath may be taken before any officer authorized by law to administer an oath, and shall form a part of, and be filed with, the records of the convention. Each convention shall decide all questions as to contested seats therein. (Ib., p. 162, sec. 22—*m.*)

Sec. 318. **Jurisdiction of and review by the courts.**—Any action or neglect of the officers or members of a political convention or committee, or of any judge or clerk of primary election, or of any public officer, or board, with regard to the right of any person to participate in a primary election, convention or committee, or to register, or with regard to any right given to, or duly prescribed for, any elector, political committee, political convention, officer or board, by this act, shall be reviewable by the appropriate remedy of mandamus or certiorari, as the case may require. In addition thereto, the supreme court of this state, or any justice thereof, or the court of appeals having jurisdiction over any city to which this act is applicable, or any judge of such court of appeals, or the circuit court of any such city, or any judge of such circuit court, shall have summary jurisdiction, upon complaint of any citizen, to review such action or neglect. Such complaint shall be heard upon such notice as the said court or justice or judge thereof shall direct. In reviewing such action or neglect, the court or justice or judge shall consider, but need not be controlled by any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto, and make such decisions and order as, under all the facts and circumstances of the case, justly may require. For any of the purposes of this section, service of a writ of mandamus, certiorari, order or other process of such court, or justice or judge thereof, upon the chairman or secretary of such convention, committee or board shall be sufficient. (Ib., sec. 23—*n.*)

Sec. 319. **Optional to certain parties.**—No party which, at the last preceding election of a governor or supreme judge, cast less than ten thousand votes for governor or supreme judge, shall be subject to the provisions of this act, unless, on or before the first day of May, in any year, such party shall elect to come in under the same. The evidence of such election shall be a certificate filed by the chairman and secretary of the state committee of such party with the election commissioners in each city in this state to which this act is applicable. In case such a certificate shall be so filed, the party on behalf of which it is filed shall be subject to the provisions of this act on and after the date of filing the same with said election commissioners and thereafter its registration, primary elections, conventions and committees shall proceed, in accordance therewith, until such time as a certificate of its election to be no longer subject to the provisions of this act shall be filed with the officers above mentioned. (Ib., p. 163, sec. 24.)

Sec. 320. **Crimes and punishments.**—Misdemeanors at, or in connection with, political caucuses, primary elections, registrations, committees and conventions. Any person who:

(*m*) Whether district delegates are duly accredited or not is to be settled by the city convention: *Sieber vs. McCaffery*, 108 Mo. App. 49, 60.

(*n*) This section (sec. 23 of act of 1901) does not authorize the circuit court by certiorari to direct the election commissioners and clerks to bring into court, after a primary election and before a certificate of election is issued, the ballots, ballot boxes, poll books and returns in order that the count may be made by direction of the court; that section does not purport to cover a contested election with either certiorari or mandamus, and hence neither writ is "appropriate:" *State ex rel. vs. Reynolds*, 190 Mo. 578. See section cited: *Sieber vs. McCaffery*, 108 Mo. App. 1 c. 60.

1. At a political caucus, or at a primary election of a party, willfully votes, or attempts to vote without being entitled to do so or votes, or attempts to vote on any name other than his own, or more than once on his own name; or

2. Votes, or attempts to vote, at a political caucus or at a primary election of a party, having voted at the political caucus or primary election of any other political party in any one primary period, or votes, or attempts to vote, at the primary election of a party other than the party to which he belongs; or

3. At a political caucus, or at a primary election, for the purpose of affecting the result thereof, votes or attempts to vote, two or more ballots, or adds or attempts to add any ballot to those lawfully cast by fraudulently introducing the same into the ballot-box before or after the ballots therein have been counted, or who adds to or mixes with, or attempts to add to or mix with, the ballots lawfully cast, another ballot or other ballots before the votes have been counted or canvassed, or while the votes are being counted or canvassed; or at any time abstract any ballots lawfully cast, with intent to change the result of such election, or to change the count thereat, in favor of or against any person or persons voted for at such election, or to prevent the ballots being recounted or used in evidence; or carries away, destroys, loses, conceals, detains, secretes or mutilates, or attempts to carry away, destroy, conceal, detain, secrete or mutilate, any tally lists, ballots, ballot-boxes, registration books, certificates of return, or any official documents provided for by the primary election law, or otherwise by law, for the purpose of affecting or invalidating result of such election, or destroying evidence; or any manner interferes with the officers holding any primary election or conducting the canvass of the votes cast thereat, or with voters lawfully exercising, or seeking to exercise, their right of voting at such primary election; (o) or

4. For the purpose of being allowed to vote at a primary election as a member of a political party, makes and files, or makes or files, with the election judges, or with any other public officer, or the election commissioners, a false declaration of party affiliation or residence, or falsely answers any pertinent questions asked him by the election judges, or by any public officer, or the election commissioners; or

5. Fraudulently or wrongfully does any act tending to affect the result of any election at a political caucus or of a primary election or convention; or

6. Induces, or attempts to induce, any officer, teller, canvasser, or primary election judge or clerk at a political caucus or primary election or convention, to do any act in violation of his duty, or in violation of the election law or the primary election law; or

7. Directly or indirectly, by himself or through any other person, pays or offers to pay, money or other valuable thing, or promises a place or position, or offers any other consideration or makes any other promise, to any person, to induce any voter or voters to vote, or refrain from voting at a political caucus, primary election, or convention, for or against any particular person or persons, or does or offers to do anything to hinder or delay any elector from taking part in or voting at a political caucus or at a primary election; or

8. By menace or other unlawful or corrupt means, directly or indirectly influences or attempts to influence the vote of any person entitled to vote at a political caucus, primary election or convention, or obstructs such person in voting or prevents him from voting thereat; or

9. Directly or indirectly, by himself or through any other person, receives money or other valuable thing, or a promise of a place or position, before, at, or after any political caucus, primary election or convention, for voting or refraining from voting, for or against any person or for voting or refraining from voting at a political caucus, primary election or convention; or

10. Being an officer, canvasser, primary judge or clerk at a political caucus or at a primary election, knowingly permits any fraudulent vote to be cast, or knowingly receives and deposits in the ballot-box any ballots offered by any person not qualified to vote; or

11. Being an officer, election commissioner, election judge, poll clerk, primary judge or clerk, knowingly registers, or attempts to register, upon any of the primary registration books, any person not qualified to register, or fraudulently enters thereupon, the name of any person, or refuses or willfully neglects to register upon any of the primary registration books the name of any qualified person who has demanded to be registered, or at any time strikes from any of the registration books the name of any person duly registered, or at any time adds to any of the registration books the name of any person not qualified to be registered, or mutilates, alters or destroys, any statement or declaration made by a qualified voter for the purpose of registering or voting; or

12. Being an officer, canvasser, election judge, primary judge or clerk, or election commissioner, willfully omits, refuses or neglects to do any act required by the

primary election law, or otherwise by law, or violates any of the provisions of the primary election law, or makes or attempts to make any false canvass of the ballots cast at a political caucus, primary election or convention, or a false statement of the result of a canvass of the ballots cast thereat; or

13. Being an election commissioner, or an officer of a political committee, or of a convention, who is charged with, or assumes, the duty of making up the preliminary roll of any convention, willfully includes in such roll the name of any person not certified to be elected thereto in accordance with the provisions of law, or who willfully omits from such roll the name of any person who is so certified to be a delegate to such convention; or

14. Who tears down, removes, defaces or destroys or displaces, or attempts to tear down, remove, deface or destroy, or displace the duplicate statement of the result of any primary election, posted up in the polling place where such primary has been held, in accordance with subdivision 2, of section 8 of this act; is guilty of a misdemeanor, punishable by imprisonment for not more than one year, not less than six months, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment. (Ib., p. 163, sec. 25.)

Sec. 321. **Inconsistent acts repealed.**—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. (Ib., p. 165, sec. 26.)

ARTICLE IV.

Primary Election Law of March 18, 1907, (Session Laws 1907, pages 263-270; applicable in all cases except as indicated in section one thereof*).

AN ACT to provide for party nominations by direct vote.

SECTION

1. Shall apply to what offices.
2. Where and when held.
3. Secretary state to certify names.
4. County clerk to publish.
5. Form of ballot.
6. Nomination papers—form.
7. Petition for nomination.
8. Qualification of signers.
9. Petition shall be signed by whom.
10. Basis of percentage, how determined.
11. Nomination papers, where filed.
12. Duty of secretary of state.
13. Notice to be published.
14. How published.
15. Ballots to be printed.
16. Clerk to prepare sample ballot.
17. Costs of election—how paid.
18. Names, how arranged—manner of voting.
19. Vacancies—how filled.
20. Qualification of voter.
21. Party committee to appoint challengers.

SECTION

22. Vote—how canvassed.
23. Returns—how made.
24. Returns, how canvassed.
25. Who declared the nominee.
26. Secretary of state to certify result.
27. Secretary state to certify to county clerk.
28. Party committeeman—how elected—platform, how made.
Tie vote to be determined by lot.
30. Secretary of state to furnish forms—August primary day to be holiday.
31. Corrupting voters—penalty.
- 31a. Qualification of judges and clerks.
32. Certain provisions of general election law to apply.
- 32a. Authorizing election commissioners in St. Louis.
33. Repealing inconsistent acts.
- 33b. Presidential electors—how nominated.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section 1. Hereafter all candidates for elective offices shall be nominated by a primary held in accordance with this act. This act shall not apply to special elections, to fill vacancies, nor to county superintendents of schools, to city officers not elected at a general state election, to town, village and school district officers.

Sec. 2. The primary shall be held at the regular polling places in each precinct on the first Tuesday of August, 1908, and biennially thereafter, for the nomination of all candidates to be voted for at the next November election.

Sec. 3. At least ninety days before the time of holding such August primary the secretary of state shall prepare and transmit to each county clerk a notice, in writing, designating the offices for which candidates are to be nominated at such primary.

Sec. 4. Upon receipt of such notice, such county clerk shall, not less than ten days thereafter, publish so much thereof as may be applicable to his county, once each week, for six consecutive weeks, in at least two, and not to exceed four, newspapers of general circulation, published in said county.

Sec. 5. The name of no candidate shall be printed upon an official ballot used at any primary unless at least sixty days prior to such primary a nomination paper shall have been filed in his behalf, as provided in this act, in substantially the following form:

*As to which see preceding article of this Chapter. This law of 1907 (acts 1907, p. 263-270, approved March 18, 1907) was enacted too late to permit of numeral sectionizing herein, hence is inserted as enacted.

As to primary selection for United States Senator see acts 1907, p. 262.

I, the undersigned, a qualified elector of the (..... precinct of the town of, or (the.....precinct of the.....ward of the city of.....), county of..... and state of Missouri and a member of the.....party, hereby nominate, who resides (at No., on street, city of, or (in the town of, in the county of, as a candidate for the office of (here specify the office), to be voted for at the primary, to be held on the first Tuesday of August, 1908, as representing the principles of said party, and I further declare that I intend to support the candidate named herein.

In cities.

Name of signer.	Street	No.	Date of signing.
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"Provided, that for county offices a declaration by the candidate, in which shall be stated the applicant's full name and residence, the office for which he proposes as a candidate, and the party upon whose ticket he is to be a candidate, shall be accepted and filed by the proper official in lieu of all other nomination papers as required in this act. Said declaration to be filed in the same time and manner as is provided for the filing of other nomination papers in this act."

Sec. 6. All nomination papers "except for county offices" shall have substantially the above form written or printed at the top thereof. No signatures shall be counted unless they be upon sheets, each having such form written or printed at the top thereof.

Sec. 7. Each signer of a nomination paper shall sign but one such paper for the same office, and shall declare that he intends to support the candidate named therein; he shall add his residence, with the street and number, if any, and the date of signing.

Sec. 8. For all nominations, except state officers, all signers of each separate nomination paper shall reside in the same precinct. For state officers, all signers on each separate nomination paper shall reside in the same county. The affidavit of a qualified elector shall be appended to each such nomination paper, stating that he is personally acquainted with all persons who have signed the same, and that he knows them to be electors of that precinct or county, a [s] the nomination papers shall require; that he knows that they signed the same with full knowledge of the contents thereof, and that their respective residences are stated therein, and that each signer signed the same on the date stated opposite his name, and that he, the affiant, intends to support the candidate named therein. Such affidavit shall not be made by the candidate, but each candidate shall file with his nomination paper, or papers, a declaration that he will qualify as such officer, if nominated and elected.

Sec. 9. Such nomination papers shall be signed: (a) If for a state office, by at least one per cent of the voters of the party of such candidate, in at least each of six counties in the state, and in the aggregate not less than one per cent, nor more than ten per cent of the total vote of his party in the state. (b) If for a representative in congress, by at least two per cent of the voters of his party, in at least one-tenth of the election precincts in each of at least one-half of the counties of the congressional district, and in the aggregate not less than two per cent, nor more than ten per cent, of the total vote of his party in such district. (c) If for an office representing less than a congressional district in area, by at least three per cent of the party vote in at least one-sixth of the election precincts of such district, and in the aggregate not less than three per cent, nor more than ten per cent of the total vote of his party in such district. Provided, that the office of representative to the general assembly of Missouri shall be regarded as a county office under the provisions of this act.

Sec. 10. The basis of percentage in each case shall be the vote of the party for the presidential elector receiving the largest vote at the last preceding presidential election. But any political organization which at the last preceding general election was represented on the official ballot by either regular party candidates or by individual nominees only, may, upon complying with the provisions of this act, have a separate primary election ticket as a political party, if any of its candidates or individual nominees receive one per cent of the total vote cast at the last preceding general election in the state, or subdivision thereof, in which the candidate seeks the nomination. Nomination papers may also be filed for non-partisan candidates; such papers shall contain at least two per cent and not more than ten per cent of the total vote cast at the last preceding general election in the state, or subdivision thereof, in which the person is a candidate, such signers to be distributed in each case as provided by the provisions of this act.

Sec. 11. All nomination papers shall be filed as follows: 1. For state officers, representatives in congress, and those members of senate and assembly whose districts comprise more than one county, in the office of the secretary of state. 2. For officers to be voted for wholly within one county, in the office of the county clerk of such county. 3. When nomination papers shall be received which contain ten per cent of the total vote, as limited in subdivisions a, b and c of section 9 of this act, the clerk, with whom such papers are required to be filed, shall not receive or file further nomination papers for the candidate named therein.

Sec. 12. At least fifty-five days before any primary preceding a general election, the secretary of state shall transmit to each county clerk a certified list containing the name and postoffice address of each person for whom nomination papers have been filed in his office, and entitled to be voted for at such primary, together with a designation of the office for which he is a candidate, and the party or principle he represents.

Sec. 13. Such clerk shall forthwith, upon receipt thereof, publish, under the proper party designation, the title of each office, the names and addresses of all persons for whom nomination papers have been filed, giving the name and address of each, the date of the primary, the hours during which the polls will be opened, and that the primary will be held at the regular polling places in each precinct. It shall be the duty of the county clerk to publish such notice for three consecutive weeks prior to said primary.

Sec. 14. Every publication required in this act shall be made in at least two, and not to exceed four, newspapers of general circulation in such county; one of such newspapers shall represent the political party that cast the largest vote in such county at the preceding general election, and one of such newspapers shall represent the political party that cast the next largest vote in such county at the preceding general election. In any case where the publication of notice cannot be made, as hereinbefore required, it may be made in any newspaper having a general circulation in the county in which the notice is required to be published.

Sec. 15. An official ballot shall be printed and provided for use at each voting precinct in the form provided herein. The names of all candidates for the respective offices, for whom the nomination papers prescribed shall have been duly filed, shall be printed thereon.

Sec. 16. At least twenty days before the August primary each county clerk shall prepare sample official ballots, placing thereon, alphabetically, under the appropriate title of each office and party designation, the names of all candidates to be voted for in the precinct of his county, for whom nomination papers have been filed. Such sample ballot shall be printed upon tinted or colored paper, and shall contain no blank endorsement or certificate. Such clerk shall forthwith submit the ticket of each party to the county chairman thereof, and mail a copy to each candidate for whom nomination papers have been filed with him, as required by this act, to his postoffice address, as given in such nomination paper, and he shall post a copy of each sample ballot in a conspicuous place in his office. On the tenth day before such primary the county clerk shall correct any errors or omissions in the ballot, cause the same to be printed and distributed, as required by law, in the case of ballots for the general election, except that the number of ballots to be furnished to each precinct shall be twice the number of votes cast thereat in the last preceding general election.

Sec. 17. All ballots, blanks and other supplies to be used at any primary, and all expenses necessarily incurred in the preparation for or conducting such primary, shall be paid out of the treasury of the city, county or state, as the case may be, in the same manner, with like effect, and by the same officers as in the case of elections.

Sec. 18. At all primaries there shall be as many separate tickets as there are parties entitled to participate in said primary election. There shall also be a non-partisan ticket, upon which under appropriate title of each office, shall be printed the names of all persons for whom nomination papers shall have been filed, as required by this act, who are not designated on such nomination papers as candidates for any political party, as defined by this act. The names of all candidates shall be arranged alphabetically, according to surnames, under the appropriate title of the respective offices, and under the proper party designation upon the party ticket, or upon the non-partisan ticket, as the case may be. If any elector write upon his ticket the name of any person who is a candidate for the same office upon some other ticket than that upon which his name is so written, this ballot shall be counted for such person only as a candidate of the party upon whose ticket his name is written, and shall in no case be counted for such person as a candidate upon any other ticket. In case the person is nominated upon more than one ticket, he shall forthwith file with the proper officer, or officers, in charge of the preparation of the ballots, a written declaration, indicating the party designation under which his name is to be printed on the official ballot. On any day of nomination of public officers in any primary election precinct, each qualified elector shall be entitled to receive from the judges of election one ballot of the political party participating in such election.

for which he desires to vote. It shall be the duty of such judges of election to deliver such ballot to the elector. Before delivering any ballot to the elector, the two judges of election having charge of the ballots shall write their names or initials upon the back of the ballot with indelible pencil, and no other writing shall be on the back of the ballot, except the number of the ballot voted.

Sec. 19. Vacancies occurring after the holding of any primary shall be filled by the party committee of the district, county or state, as the case may be.

Sec. 20. No person shall be entitled to vote at any primary unless a qualified elector of the precinct, and duly registered therein, if registration thereat be required by law.

Sec. 21. The party committee of each county may appoint, in writing, over their signatures, two party agents at each precinct or representatives, with an alternate for each, who shall act as challengers for their respective parties, and have the power prescribed by law. The right of any person to vote at a primary may be challenged upon the same ground, and his right to vote be determined in the same manner as at an election. The chairman of each party committee of any county may represent his party at the polling booth during the canvass and return of the vote at a primary, or he may appoint an agent, or designate a member of his committee for that purpose.

Sec. 22. The canvass of votes cast shall be made in the same manner and by the same officers as the canvass of an election. The party chairman of the county in a precinct canvass, of the county in a county canvass, of the state in a state canvass, or some duly appointed agent to represent each party, shall be allowed to be present and observe the proceedings.

Sec. 23. The precinct judges and clerks of election shall, on separate sheets, on blanks to be provided for that purpose, make full and accurate returns of the votes cast for each candidate, and shall, within twenty-four hours, cause to be delivered one copy of such returns as to each political party, to the county chairman of that party, and also cause such returns to be delivered to the county clerk: Provided always, that such returns shall be sent by registered mail where practicable.

Sec. 24. The county canvass of the returns of a primary shall be made by the same officers, and in the manner as now provided by law, for the canvass of returns of a November election. The canvassers shall meet and canvass such returns at ten o'clock on the Friday following the primary. Their returns shall contain the whole number of votes cast for each candidate of each political party, and a duplicate as to each political party shall be delivered to the county chairman of such party. The canvassers shall also make an additional duplicate return in the same form, showing the votes cast for each candidate not voted for wholly within the limits of the county. The county clerk shall forthwith send to the secretary of state, by registered mail, one complete copy of all returns as to such candidates, and he shall likewise send to the chairman of the state central committee of each party a duplicate copy of the returns last described relating to such candidates of each party.

Sec. 25. The person receiving the greatest number of votes at a primary as the candidate of a party for an office shall be the candidate of that party for such office, and his name as such candidate shall be placed on the official ballot at the following election.

Sec. 26. As soon as the state canvass of a primary shall be certified to him, the secretary of state shall cause to be published a certified statement of the result of such primary as to candidates for state officers, and representatives in congress, and any other candidate whose district extends beyond the limits of a single county, and shall mail to the chairman of the state central committee of each party so much of such certificate as relates to his party.

Sec. 27. Not less than fourteen days before any November election, the secretary of state shall certify to the county clerk of each county within which any of the electors may vote for the candidates for such offices, the name and description of each person nominated for any such office as specified in the nomination papers.

Sec. 28. At the August primary each voter may write, in the space left on his ticket for that purpose, the name of one qualified elector of the ward or township, as the case may be, for his ward or township committeeman, and the one having the highest number of votes in such ward and township shall be the member of the party committee of such county, and each county committee composed of the various ward and township committeemen shall meet at the county seat of such county on the first Friday after the said August primary and organize by the election of a chairman, secretary and treasurer of such committee, and the chairman so elected of each county committee shall, by virtue thereof, become a member of the party congressional, senatorial and judicial committee of the district of which his county is a part. Provided, that if any such congressional district shall consist wholly of one county, then the members of the county committee of such county shall constitute the congressional committee of such district. Such congressional committee, so composed of the various county chairmen of each district, shall meet at point, in such congressional district, designated by the then chairman of the con-

gressional committee, on the second Tuesday in August after such primary election, and, when so met, shall organize by the election of one of its members as chairman of such committee, and by electing a secretary and treasurer, and shall then proceed to name two qualified electors of such district as members of the party state committee, which state committee, being composed of two members from each congressional district in the state, shall meet at noon on the second Tuesday of September at the state capitol and organize by the election of a chairman, who shall be chairman of the state committee, and by the election of a secretary and treasurer of such committee, and after having so organized shall meet with the party nominees for state officers, congressmen, state senators, representatives, and forthwith formulate a state platform for their party, and make public the same not later than 6 o'clock in the afternoon of the following day. The provisions of this section, so far as consistent, shall apply to cities that are divided into wards for election purposes, and when the word county is used, it shall apply to such committees by wards, so far as applicable.

Sec. 29. In case of a tie vote, the tie shall forthwith be determined by lot by the canvassers.

Sec. 30. It shall be the duty of the secretary of state, on or before March 1, 1908, to prepare all forms necessary to carry out the provisions of this act, which forms shall be substantially followed in all primaries held in pursuance hereof. Such forms shall be printed with copies of this act for public use and distribution. Every day on which an August primary shall be held shall be a legal holiday.

Sec. 31. Any person who shall offer, or with knowledge of the same, permit any person to offer for his benefit, any bribe to a voter to induce him to sign any nomination paper, and any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after such signing, or any candidate, who shall knowingly cause a nomination paper or papers, to be signed in his behalf by more than the maximum number of qualified electors provided for his district by this act, shall be guilty of a misdemeanor, and, upon trial and conviction thereof, be punished by a fine of not less than twenty-five nor more than five hundred dollars, or by imprisonment in the county jail of not less than ten days nor more than six months, or by both such fine and imprisonment. Any act declared an offense by the general laws of this state concerning caucuses and elections, shall, also, in like case, be an offense in all primaries, and shall be punished in the same form and manner as therein provided, and all the penalties and provisions of the law as to such caucuses and elections, except as herein otherwise provided, shall apply in such case with equal force, and to the same extent as though fully set forth in this act. Any person who shall forge any name of a signer or witness to a nomination paper shall be deemed guilty of forgery, and, on conviction, punished accordingly. Any person who, being in possession of nomination papers entitled to be filed under this act, or any act of the legislature, shall wrongfully, either suppress, neglect or fail to cause the same to be filed at the proper time in the proper office shall, on conviction, be punished by imprisonment in the county jail not to exceed six months, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

Sec. 31a. The judges and clerks for primary elections held under this act, shall be provided by the same appointing power, in the same manner, and possess the same qualifications and consist of the same number as judges and clerks of general elections in this state: Provided, that in all counties in this state which now contain, or hereafter may contain, a city of not less than 100,000 inhabitants nor more than 400,000 inhabitants, the county committee of each political party which, at the general election held next preceding any primary election held under the provisions of this act, cast at least ten per cent of all the votes cast at such election in such county, shall appoint three judges and one clerk for such primary election for each election precinct in such county outside of such city, and in all such cities the judges and clerks of election regularly appointed and commissioned for regular elections shall act as judges and clerks of all primary elections held under the provisions of this act.

Sec. 32. The provisions of the statutes now in force in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making return thereof, and all other kindred subjects, shall apply to all primaries in so far as they are consistent with this act, the intent of this act being to place the primary under the regulation and protection of the laws now in force as to elections.

Sec. 32a. That any duty devolved upon or power given to the county clerk by this act shall, in the city of St. Louis, be performed by the board of election commissioners for said city, or a majority of them.

Sec. 33. All acts or parts of acts inconsistent with, or in conflict with the provisions of this act, are hereby repealed.

Sec. 33b. The state committee of any political party may call a convention of delegates to be apportioned, chosen or elected in such manner as it may prescribe, for the purpose of nominating presidential electors, electing delegates to national conventions, electing members of national committees, adopting or making such declarations of party principles with reference to national questions as may be deemed advisable, and to do and to perform any other act not prohibited by or inconsistent with this law.

Approved March 18, 1907.

In connection with the election laws there is subjoined hereto, the act of March 15, 1907 (Session Laws 1907, p. 262), respecting United States senators, though the same is not strictly included within the scope of this work.

ELECTIONS, PRIMARY: U. S. SENATOR.

AN ACT to provide for the selection of the caucus nominee for United States senator, and instructing the members of the general assembly of the state of Missouri to vote for said nominees.

SECTION

1. Candidates for U. S. Senate to be voted on, when.
2. Application to be filed with secretary of state.
3. Secretary of state to certify list.

SECTION

4. Duty of county clerk to prepare ballot.
5. Vote, how counted.
6. Who declared nominee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section 1. At each general election held in the state of Missouri, at which a legislature is chosen, whose duty it shall be to elect a United States senator, according to the laws and Constitution of the state, the names of the candidates of each political party for said office of United States senator shall be placed upon the ballots of the political party to which the candidate belongs, of the several political parties, and be voted upon at said general election.

Sec. 2. At least sixty (60) days prior to said general election each person desiring to be a candidate for the office of United States senator shall file with the secretary of state his application, stating his full name, residence and postoffice address, also the political party to which he belongs, and upon whose ticket he wishes his name entered as a candidate.

Sec. 3. The secretary of state shall, at least thirty (30) days prior to the general election, make out separate lists of the candidates for each ticket and arrange them in alphabetical order in relation to the surname, and certify a true copy of each ticket to each county clerk in the state, and to the proper officer in the city of St. Louis.

Sec. 4. The county clerks and the proper officer in the city of St. Louis shall have these names printed upon the official ballots to be voted at such general election. The names shall be printed in the order as arranged by the secretary of state, and the list of each party's candidates shall be placed only upon the ticket of that particular party. The names shall be placed as aforesaid under the heading "Candidates for United States senator," and shall be placed immediately following the caption or heading of the ticket. Immediately underneath the heading, "Candidates for United States senator" shall be printed in small type, and in parenthesis, the following instructions to voters: "Draw a line through all the names you do not wish to vote for." The voter may scratch out all the names of candidates for the United States senate on one ticket and vote for some person not on any ticket, by writing said name underneath those scratched out, and said vote shall be counted for the person thus voted for; but no voter can vote on one ticket for any candidate for United States senator whose name officially appears on any other ticket.

Sec. 5. The vote for United States senator shall be counted, recorded and certified to the same as the vote for all other officers.

Sec. 6. The person found to have the largest number of votes, upon the ticket that shall have a majority on joint ballot in the joint assembly of the state legislature, at the session held next after said election, shall be declared to be the caucus nominee of said political party, and all members of said party in the legislature shall vote for said person. Likewise the caucus nominees of the other political parties shall be the persons receiving the highest number of votes upon their respective tickets.

Approved March 15, 1907.

CHAPTER TEN.

FIREMEN'S PENSIONS.*

Section 322. Firemen's pension fund authorized.—Any fire department existing by authority of the laws of this state, or any municipal authority thereof, in any city in this state now having or which may hereafter acquire a population of more than one hundred thousand inhabitants, is hereby authorized and empowered to create funds for the purpose of pensioning firemen, and affording relief to members of such fire department when sick, or who may become disabled in the service, or retired, and provide for the relief of the families and other dependents of such firemen in case of death, under such rules and regulation as may be enacted by the board of trustees of such funds, subject to the provisions of this act, and not inconsistent with the constitution and laws of this state. (Laws 1903, p. 87, sec. 1.)

Sec. 323. Honorary Members.—The board of trustees may provide for the admission of honorary members of the department in such manner and under such conditions as may be set forth in the rules and regulations enacted by said board of trustees. (Ib., sec. 2.)

Sec. 324. Board of Trustees.—In cities, the treasurer, the counselor, the clerk or register, and the comptroller, where such office exists, the chief officer of the fire department, four delegates at large from the fire department, to be elected by the members thereof on the first Monday of December of each year, whose term of office shall be for one year, and one delegate from the retired or pensioned list, to be elected by the retired or pensioned members on the first Monday of December of each year, whose term of office shall be for one year, shall constitute and be a board to be known as the "board of trustees of the firemen's pension fund." The board shall select from their members a president and secretary. (Ib., sec. 3.)

Sec. 325. Treasurer.—The treasurer, in all cities in this state to which this act is applicable, shall be ex officio treasurer of said board, and as such shall have charge of the funds and securities provided for herein. He shall give such bond as the board may require, and shall be subject to the order and direction of the board. (Ib., sec. 4.)

Sec. 326. Relief fund and retirement fund—sources of revenue.—The revenues which shall form and maintain the fire department pension funds in cities to which this act is applicable, shall be divided as follows, viz: first, into the "relief fund," and, second, into the "retirement fund." Said funds shall be created as hereinafter provided, and shall be separately kept, and used only as provided in this act. The funds which shall be credited to and form the "relief fund" shall be realized and secured from the following sources: all moneys and securities remaining in the hands or under control of any incorporated fire department pension fund and relief association existing in any such city at the time this act shall take effect, which may be transferred to said fund by authority of the members of such association, and all moneys which may now be under the control of any board of trustees of the firemen's fund, or firemen's pension fund, in any such city at the time when this act shall take effect; all moneys derived by any such city from the sale of all condemned stock, horses, mules, condemned hose, or other fire apparatus of every kind or description, which may be set apart to said fund by act or ordinance of the municipal authorities of such city; all moneys received from rejected or surplus material or article of value coming into the department and disposed of and sold by the officers of any such city, which may be set apart to said fund by act or ordinance of the municipal authorities of such city; all moneys levied and collected by any court as fines for the violation of the laws in relation to the construction of any certain class of buildings of prohibited materials within the fire limits of any such city as established by law or ordinance, which may be set apart to said fund by act or ordinance of the municipal authorities of such city; all fines derived from any violation of any building law or ordinance in any such city, which may be set apart to said fund by act or ordinance of the municipal authorities of such city; all fines and penalties that may be collected for violating the municipal laws or ordinances regulating the quantity, quality or storage of petroleum, coal oil, gasoline, turpentine, or any product thereof, all hemp, cotton, powder, giant powder, dynamite or other combustible or inflammable substance, liquid or material that is considered extremely dangerous or hazardous, which may be set apart to said fund by act or ordinance of the municipal authorities of such city; all moneys derived from licenses or privileges to store or manufacture coal oil, petroleum, gasoline, turpentine, powder, giant powder, dynamite, hemp, cotton, or other combustible or inflammable substances, liquid or material that is con-

*This act accepted by ordinance 21467—now Rev. Code Sec. 304. The act was authorized by amendment to Constitution of Art. IV, Sec. 47.

sidered extremely dangerous or hazardous, which may be set apart to said fund by act or ordinance of the municipal authorities of such city; and all moneys derived from any and all other sources that may by any law or ordinance of this state, or any municipality thereof, be set apart for the benefit of any such fire department pension fund in any such city in this state.

The funds which shall be credited to and form the "retirement fund" shall be realized and secured from the following sources: All initiation fees and dues from the active and honorary members of the department; all moneys derived from citizens or others for services rendered by any such fire department to such citizens or others for pumping out cellars, filling cisterns, removing dangerous walls, buildings or other obstructions that are injurious or dangerous to the inhabitants of any such city, and the emoluments from all such other work as may be permitted by any such city to be performed by the department outside of its legitimate and proper duty; all fines and penalties imposed upon any members of the department for any dereliction of duty, or for violation of any rule or order or regulation of the department, after any such rule, order or regulation has been properly promulgated and made known to the department—such fine or penalty shall not exceed fifty dollars, or be less than five dollars, for any one offense; all donations received by the chief or any other officer of the department from any citizen or other person or corporation for and in the name of the department; and all moneys derived from lectures, picnics and other entertainments authorized by the department. (Ib., sec. 5.)

Sec. 327. Same—Municipal revenue.—The municipal authorities in cities in this state to which this act is applicable, may, by act or ordinance, set apart not exceeding one per centum of all revenues received for municipal purposes by such cities from licenses issued by such cities, as a fund for the pensioning of crippled and disabled members of the fire department, and of the widows and orphans of deceased members of the fire department of such cities, which moneys shall be credited to said "relief fund." (Ib., p. 88, sec. 6.)

Sec. 328. Certain money for retirement fund.—All rewards in money, fees, gifts and endowments that may be paid or given for or on account of extraordinary services by said fire department, or any member thereof, except when permitted by order of the board to be retained by said member, may be paid into said "retirement fund," and the said board of trustees may take by gift, grant, devise or bequest any money, real estate, personal property, right of property or other valuable thing, and same shall be treated as a part of and for the use of said "retirement fund." Provided, however, the principal of said fund shall never in the aggregate exceed the sum of two hundred and fifty thousand dollars. (Ib., p. 88, sec. 7.)

Sec. 329. Powers of board of trustees.—The board of trustees of the firemen's funds shall have exclusive control and management of the separate funds mentioned in this act, and of all the moneys donated, paid or assessed, for the relief or pensioning of crippled, disabled or retired members of the fire department, and their widows, minor children and dependents. Said board shall make all needful rules and regulations for its government in the discharge of its duties, and shall hear and decide all applications for relief or pensions under this act, and its decision on such applications shall be final and conclusive and not subject to review and reversal except by the board, and a record shall be kept of all the meetings and proceedings of the board. (Ib., p. 89, sec. 8.)

Sec. 330. Transfer from retirement to relief fund, etc.—The moneys and securities credited to the "relief fund" under the provisions of this act shall in no case be transferred to or become a part of the "retirement fund," or used in whole or in part for the purposes for which the latter fund is created; but the board of trustees shall have the power, for the purpose of equalizing the demands against said funds, to transfer any part of the moneys credited to said "retirement fund" to the former fund, and such moneys shall thereafter become a part of the same. (Ib., sec. 9.)

Sec. 331. Assessment of members.—The board of trustees may assess each member of the fire department such sum per month as may be determined by the rules and regulations adopted by the board, and such assessment shall not be increased or diminished during any one fiscal year, the sums so assessed to be deducted and withheld from the monthly pay of each member, and the same to be placed by the treasurer of the board to the credit of the "relief fund." (Ib., sec. 10.)

Sec. 332. Investment.—Said board of trustees shall have power to draw such funds as are credited to the "relief fund" under the provisions of this act from the treasury of such city, and may invest the same, or any part thereof in the name of the "board of trustees of the firemen's pension fund," in interest-bearing bonds of the United States or the state of Missouri, or of any county, township or municipal corporation of the state, or loan the same on real estate in the city where such pension funds are established, not exceeding in amount in any case two-thirds of the assessed tax-paying valuation of such real estate; and said board shall have power to invest the funds credited to the "retirement fund" in like manner. All such securities shall be deposited with the treasurer of such city, as ex officio treasurer of such board. (Ib., sec. 11.)

Sec. 333. How loaned—interest.—Said funds shall be loaned separately, and the interest received from the investment of same shall be credited to said funds respectively. (Ib., sec. 12.)

Sec. 334. Who beneficiaries of relief fund.—If any member of the fire department of any such city shall, while in performance of his duty, become and be found, upon an examination by a medical officer ordered by said board of trustees, to be physically or mentally permanently disabled by reason of service in such department, so as to render necessary his retirement from service in said fire department, said board of trustees shall retire such disabled member from service in such fire department: Provided, however, no such retirement on account of disability shall occur unless said member has contracted said disability in the service of such fire department; and upon such retirement the said board of trustees shall order the payment to such disabled members of such fire department monthly, from the "relief fund," such sum of money as may be determined by the rules and regulations provided for the management of said funds; and in case the party suffering such disability is a member of the volunteer department receiving no pay, the amount to be paid him shall be fixed by the board of trustees. (Ib., p. 89, sec. 13.)

Sec. 335. When widows and children beneficiaries.—If any member of such fire department shall, while in the performance of his duty, be killed or die as the result of an injury received in the line of his duty, or of any disease contracted by reason of his occupation as fireman, or shall die from any cause whatever while in such service, and shall leave a widow, or child or children under the age of sixteen years surviving, said board of trustees shall direct the payment, from said "relief fund" monthly to such widow, while unmarried, such sum of money as may be determined by the rules and regulations provided for the management of said funds, and said board shall also direct the payment out of said "relief fund" for each child until it reaches the age of sixteen years such sum of money as may be determined by said rules and regulations; and in case the party suffering such disability is a member of the volunteer department, the amount to be paid monthly to his widow and children aforesaid shall be fixed by said board of trustees. (Ib., sec. 14.)

Sec. 336. Retirement fund—relatives beneficiaries of retirement fund, when—If any member of such fire department being single and unmarried shall, while in the performance of his duty, be killed, or die as the result of an injury received, or shall die of any disease contracted by reason of his occupation as fireman, or shall die from any cause whatever while in said service, and shall leave a father or mother who are dependent upon him for support, or a brother or sister under the age of sixteen years so dependent, said board of trustees shall direct the payment from the "retirement fund" monthly to each such dependent parent, and to each such dependent brother or sister under sixteen years of age, such sum of money as may be determined by the rules and regulations provided for the management of said funds. (Ib., sec. 15.)

Sec. 337. Same—member of fire department beneficiary, when.—Any member of the fire department of any such city, arriving at the age of fifty years, and having served twenty-two years or more in such fire department, of which the last two years shall have been continuous, may make application to be relieved from such fire department and retired; and if his application is granted, or if he shall be discharged from such department, the said board of trustees shall order and direct that said person shall be paid out of the "retirement fund" monthly such sum of money as may be determined by the rules and regulations provided for the management of said funds; and if he be a member of the volunteer fire department and not under pay, such amount monthly as may be fixed by the board of trustees. After the decease of such member, his widow, providing their marriage shall have occurred prior to such retirement, and his children under the age of sixteen years, if any, shall be paid out of the retirement fund such sum of money as may be determined by said rules and regulations. (Ib., sec. 16.)

Sec. 338. Same—widow and children, when.—If any member of such fire department shall die after having been retired and pensioned by reason of injuries sustained or disease contracted while serving as a member of the department, his widow, providing their marriage shall have occurred prior to such retirement, and children under sixteen years of age, if any, shall be paid monthly out of the "retirement fund" such sum of money as may be determined by the rules and regulations provided for the management of said funds.

Sec. 339. Funds pro-rated, if insufficient.—If at any time there shall not be sufficient money in the funds created under the provisions of this act to pay each person entitled to the benefits herein provided the full amount per month provided for in said rules and regulations, then an equal percentage of such monthly payments shall be paid to each beneficiary until said funds shall have been replenished so as to warrant the payment in full of each of said beneficiaries. (Ib., sec. 18, p. 91.)

Sec. 340. Treasurer's bond—duties.—The treasurer of the board of trustees shall be the custodian of said pension funds, and shall secure and safely keep the same, subject to the control and direction of the board, and shall keep his books and accounts concerning said funds in such manner as may be prescribed by the board, and said books and accounts shall always be subject to the inspection of the board or any member thereof. The treasurer shall execute a bond to the city, with good and sufficient sureties, in such penal sum as the board shall direct, to be approved by the board, conditioned for the faithful performance of the duties of his office, and that he will safely keep and well and truly account for all moneys and property which may come to his hands as such treasurer, and that on the expiration of his term of office he will surrender and deliver over to his successor all unexpended moneys, and all securities and property which may have come to his hands as treasurer of such funds; and said bond shall be filed in the office where the records of the city are kept, and may be sued on in the name of said city, to the use of said board or any person or persons injured by a breach thereof. (Ib., sec. 19.)

Sec. 341. Warrants—when and how drawn.—It shall be the duty of the officer or officers of such city who are designated by law to draw warrants on the treasurer of such city, upon request, in writing, by said board of trustees, to draw warrants on the treasurer of such city, payable to the treasurer of such board of trustees, for all funds belonging to said pension funds as aforesaid. (Ib., sec. 20.)

Sec. 342. Same.—All moneys ordered to be paid from said pension funds to any person or persons shall be paid by the treasurer of the board of trustees only upon warrants signed by the president of said board and countersigned by the secretary thereof, and no warrant shall be drawn except by order of the board, duly entered on the records of the proceedings of the board. (Ib., sec. 21.)

Sec. 343. Reports of board.—The board of trustees shall make report to the legislative body of such city of the condition of said pension funds, immediately after the first meeting of said board in January of each year. (Ib., sec. 22.)

Sec. 344. Pension funds exempt from legal process for debt.—No portion of said pension funds shall, before or after its order of distribution by the board of trustees to the persons entitled thereto, and before the actual payment thereof to such persons, be held, seized, taken, subjected to, or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding whatever issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damages, claim demand or judgment against the beneficiary of said funds; but the said funds shall be held and distributed for the purposes of this act, and for no other purpose whatever. (Ib., sec. 23.)

Sec. 345. Fire Department Association—may transfer funds to board of trustees.—Any fire department pension fund and relief association existing in any city to which this act is applicable is hereby empowered, by a majority vote of its members, to transfer and deliver all its property and effects, after the payment of all debts and liabilities then due, to the board of trustees created under this act, and the said board of trustees is hereby authorized to credit said property and effects to the "relief fund" provided for in this act. (Ib., sec. 24.)

Sec. 346. Funeral expenses.—Whenever an active or retired fireman shall die, as aforesaid, the board of trustees may appropriate from the "retirement fund," a sum not exceeding one hundred dollars to the widow or family of such fireman for funeral expenses, and may expend a sum not exceeding fifty dollars, to be drawn from said fund, for the expenses of the attendance of the firemen at said funeral.

Sec. 347. Inconsistent acts repealed.—All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER ELEVEN.

FLOUR, INSPECTION OF.

Section 348. Flour inspectors may be appointed.—The chamber of commerce of the city of St. Louis is hereby authorized to appoint a board of flour inspectors for the city of St. Louis, for the purpose of inspecting flour designed for shipment, under such rules and regulations as it may see fit to establish, whose brands, between buyer and seller, shall be evidence of the quality of the flour they represent, and which may have been subjected to said inspectors. (Laws 1857, p. 446, sec. 1. R. S. 1899, p. 2563, sec. 8.)

CHAPTER TWELVE.

HOLIDAYS—SATURDAY AFTERNOON.

Section 349. Doors closed at noon.—It shall be the duty of the heads of departments in every county or municipal office in cities which now have or may hereafter have a population of 300,000 inhabitants or over, or in any county ad-

joining such city, having one or more deputies, assistants or clerks, to close the doors of said office at twelve o'clock noon on each and every Saturday in the year: Provided, that the person in charge or possession of said office may require such deputies, assistants or clerks to work whenever the necessities of the service, in his judgment require it; and provided further, that the provision of this section shall not apply to constables, fire department or police forces. (Laws 1903, p. 93, amending R. S. 1899, sec. 6247.)

CHAPTER THIRTEEN.

HOSPITAL, SOCIAL EVIL.

Section 350. Social evil hospital, how supported.—The mayor and city council [municipal assembly] of the city of St. Louis shall, at the earliest day practicable, after the approval of this act, provide by ordinance for the government and support of the institutions known as "the Social Evil Hospital, and the House of Industry of the city of St. Louis;" and until provision is so made, the aforesaid institutions shall continue under the care and control of the board of health of the city of St. Louis. But when such ordinance shall have been passed, the board of health shall turn over to the person or persons therein named the control of the institutions aforesaid, together with the money and property pertaining thereto, and derived from the so-called social evil regulation and shall account to such person or persons for all such moneys which may now be in their possession, or which may come into their possession as aforesaid. (Laws 1874, p. 384, sec. 1. R. S. 1899, p. 2559.)

Sec. 351. To be held by city for what purposes.—The aforesaid hospital shall be held by the city for the free use of such female prostitutes and bawds belonging to said city of St. Louis, as may be afflicted with any venereal disease; and hereafter no female so afflicted shall be placed in any other city hospital for treatment. (Laws 1874, p. 384, sec. 2. R. S. 1899, p. 2560.)

Sec. 352. House of Industry.—The House of Industry shall be maintained by the said city, for the purpose of affording a home and the acquirement of some useful occupation as a means of reformation for such bawds or prostitutes in said city as may desire to reform and abandon their life of shame. (Laws 1874, p. 384, sec. 3. R. S. 1899, p. 2560.)

Sec. 353. Appropriations to be made for support of, etc.—The said mayor and city council [municipal assembly] shall annually provide, by appropriation or otherwise, such sum as may be necessary for the support of the hospital and House of Industry aforesaid. (Laws 1874, p. 384, sec. 4. R. S. 1899, p. 2560.)

Sec. 354. Duty of physician treating venereal diseases.—Hereafter every physician in the city of St. Louis treating any person having the reputation of being a prostitute, or whom he has reason to suspect of so being, for any venereal disease, shall immediately certify the fact, with the name and residence of the patient, to the board of police commissioners, and the vice-president of said board shall, at the discretion of the said board, thereupon issue his warrant for the confinement of such person in the aforesaid hospital for treatment, during the term of such sickness, unless sooner discharged by competent authority. (Laws 1874, p. 384, sec. 5. R. S. 1899, p. 2560.)

CHAPTER FOURTEEN.

HOUSE OF REFUGE.*

Section 355. Board of managers.—The institution known as the St. Louis House of Refuge shall hereafter be under the control of a board of managers, to be appointed as soon after the 1st day of April, 1873, as practicable, which shall consist of five members, four of whom shall be appointed by the mayor, with the advice and consent of the [municipal assembly] city council; and the mayor of the city shall be *ex officio* a member of and president of said board. (Laws 1873, p. 353, sec. 1. R. S. 1899, p. 2553.)

Sec. 356. Organization of board—term of office.—The board of managers so appointed shall organize within ten days after their appointment, by the election from among their members of a vice-president and secretary, and the members shall thereupon proceed to draw lots for their term of service; the one drawing ballot numbered one shall serve for one year; the one drawing ballot numbered two shall serve for two years; the one drawing ballot numbered three shall serve for three years; the one drawing ballot numbered four shall serve for four years; so that the term of service of one member of the board shall expire every year; vacancies occurring in the board by expiration of the term of service, resignation or otherwise, shall be filled by the mayor, with the advice and consent of the [municipal assembly] city council; a majority of said board of managers shall constitute a quorum for the transaction of any business or the exercise of any power conferred upon said board. (Ib., sec. 2.)

Sec. 357. Commitment of children, etc.—Every child found in the city of St. Louis in a state of want, or abandoned or improperly exposed, or grossly neglected by its parents or persons having its charge, and every child of any person in said city or county convicted of being a common prostitute, or keeper of a bawdy house or house of resort for prostitutes or of assignation, and every child found living in such house, may be committed to said house of refuge by the mayor or police justice of said city, or any judge of a court of record having jurisdiction within St. Louis county [city], upon complaint and competent proofs of the facts charged. (Ib., sec. 3—p.)

Sec. 358. Parents or guardian may send children, etc.—All males under the age of sixteen years, and females under the age of fourteen years, shall be liable to commitment to the house of refuge in accordance with the provisions of the foregoing section; and any parent or guardian having legal power to apprentice any male child or ward under the age of sixteen years, or any female child or ward, under the age of fourteen years, who shall, in writing, by him or her signed, represent to the board of managers of said house of refuge that such child or ward is a proper and fit subject for admission into said house of refuge, stating the particular facts which constitute such fitness, and petitioning said managers to take charge of said child or ward, may be examined in relation thereto by said board of managers, who are authorized to receive all such children or wards at their discretion;

*The name of "House of Refuge" was by ordinance of the City of St. Louis No. 22145 (R. C. sec. 1785) changed to "St. Louis Industrial School." See notation and reference in note to R. C. sec. 1785. Power of board of managers to arrange with public school authorities for education of children in House of Refuge. See Laws 1905, p. 301, set out *infra*, sec. 497.

The House of Refuge is an eleemosynary institution; its object is reformatory. Its design is to train its inmates to industry and to improve their morals. Such institutions are both penal and reformatory, and are well adapted for the confinement of juvenile culprits by separating them from the matured and hardened class of criminals. * * * When the house of refuge is designated as the place of confinement of a youth under 16 years of age under sentence for misdemeanor, it is as to him a penal institution, etc.; per Goode, (Barclay concurring) in *In re Larkowski*, 94 Mo. App. 1. c. 631-632; Goode, J., holding in a concurring opinion that a law (sec. 360 *infra*, being sec. 6 of the act) permitting restraint of liberty indefinitely at the discretion of the board, "is wholly inconsistent with the spirit of our institution, with the rights of citizens, and with the Constitution itself, which requires uniform punishment for offenses throughout the State and punishment of no unusual character," and concludes that there can be no lawful commitment for crime to the refuge. The majority held that prisoners committed for crime are entitled to one dollar per day in working out the fine, and that the fifty-cent law of the Court of Criminal Correction, (which had sent the youth to the House of Refuge) was void.

So in *State ex rel. vs. Walbridge*, 69 Mo. App. 659, 1. c. 667 the court, commenting on Sec. 3 of the act (secs. 357 *infra*) observed: "The House of Refuge, as its name signifies, is an institution established and maintained by the City of St. Louis, under the sanction and authority of the State, for the benefit of the most exposed and unfortunate of the City's young children, such children, if unprotected and uncared for by the City, as would either find an early grave from neglect, starvation or from brutal treatment, or surviving, would grow up in ignorance and vice. The object of this charity is twofold: First, to provide a place of refuge, a home for the unfortunate and outcast children of the city; secondly, to provide them educational facilities and training in industrial pursuits."

(p) See comments on this section in *State ex rel. vs. Walbridge*, 69 Mo. App. 659, 667.

the expenses of such child or ward before such reception shall be secured to be paid by the parent or guardian, unless in cases where the managers, for good cause, shall otherwise determine; and in all cases where such payment is ordered to be made by such parent or guardian, it shall be according to the rates fixed in the general regulations hereinafter provided for; but in no case shall any child be committed to the house of refuge under the age of three years; and all minors committed thereto shall be under the control of said board of managers, until discharged under the provisions of this act or under the general laws of the state. (Laws 1873, p. 354, sec. 4. R. S. 1899, p. 2554.)

Sec. 359. Pardoning power of mayor, etc.—The mayor shall have authority to order the discharge of any inmate from the house of refuge when, in his opinion, an urgent reason exists for granting said discharge before the next meeting of the board of managers, but in all other cases applications shall be made to said board, which shall dispose of the same at a regular meeting. The said board may surrender any inmate of said house of refuge, not convicted of crime, to its parents or guardian, or if it have no parents or guardian, to the managers of any asylum within the county of St. Louis, or chartered protectorate, who may desire to take charge of the same at their own expense: *Provided*, Such person shall satisfy the board of managers as to the qualification and ability to provide for the comfort and wants of such child, and to care for their moral and physical welfare; *and provided, further*, that no such child shall be surrendered to or placed in such asylum or protectorate, the officers or managers whereof, or a majority of them, are of different religious tenets from those of its former parents or guardians, if such tenets can be ascertained; *and provided also*, that no such asylum or protectorate shall have any claim upon the city of St. Louis or upon the county of St. Louis, or upon any public fund whatever, for or in respect of the care or support of any such child, nor on account of any expense incurred on account thereof. The board shall meet not less than twice in each month for the auditing of bills and other business. (Laws 1873, p. 354, sec. 5. R. S. 1899, p. 2554.)

Sec. 360. Commitment—transfer of males and females under certain ages to house of refuge.—All males under sixteen years of age and females under fourteen years of age who shall, under existing laws of the State of Missouri or ordinance of the city of St. Louis, or such as may hereafter be enacted or passed, be liable to confinement in the work-house of St. Louis city, the county jail of St. Louis county, may, at the discretion of the court or magistrate giving sentence, be placed in said house of refuge or the state reform school, if such school shall be established, and when so placed in the said house of refuge, shall be under the control of the board of managers thereof; but no such commitment shall be made for any specified term, but said minor or minors may be discharged at any time under the provisions of the preceding section. (Laws 1873, p. 354, sec. 6. R. S. 1899, p. 2555—*q.*)

Sec. 361. Who to pay for children.—For each child residing in St. Louis county, outside of the city of St. Louis, who may be committed to said institution, as hereinbefore provided, by order of any court of competent jurisdiction, the county court of said county shall pay into the city treasury forty cents per day; and the superintendent of said house of refuge shall render quarterly to said county court a statement of the number so confined, and said court shall audit and allow the same. (Laws 1873, p. 355, sec. 7. R. S. 1899, p. 2555.)

Sec. 362. Board of managers—general powers.—Said board of managers of said house of refuge shall have power and authority:—

First—To make all needful contracts for said house of refuge, its officers and inmates, subject to such conditions as may be imposed by the city council.

Second—To make, establish, alter and enforce all needful regulations for the government and control of said house of refuge, its officers and inmates.

Third—To issue a writ directed to any sheriff, marshal or constable of the State of Missouri or any municipality or county thereof, for the recapture of any fugitive from said house of refuge; such writ shall be in the name of the State of Missouri, and shall be signed by the mayor or acting mayor, and shall therefore be of legal and valid force.

Fourth—To make all needful by-laws for the government of said house of refuge.

Fifth—To employ and appoint such officers as may be needful.

Sixth—To apprentice any inmate of said house of refuge until the time when such inmate shall reach the age of eighteen years: *Provided*, That the mayor and

(*q.*) So much of this section as seeks to authorize commitment for crime, without a specified term, is void, because in conflict with later controlling statutes (R. S. 1899, sec. 1791, 1792, 1793, 2384, 2685, 2686, etc.); nor is it within the power and authority of the board of managers to retain a minor for a longer term than specified in the commitment: In Larkowski, 94 Mo. App. 623, 629, 631. Judge Goode, in concurring, holds the entire section void as unconstitutional and void and that there can be no lawful commitment to the House of Refuge for crime.

city council [municipal assembly] of the city of St. Louis may, from time to time, provide by ordinance, not inconsistent with law, for the support, control and management of said house of refuge. (Laws 1873, p. 355, sec. 8. R. S. 1899, p. 2555.)

Sec. 363. Appropriations for support of.—The city council [municipal assembly] of the city of St. Louis shall annually appropriate a sufficient sum for the maintenance and to secure efficient operation of the said house of refuge. Said amount shall be based on an estimate submitted by the board of managers aforesaid to said council [assembly], and all bills presented for payment shall be signed by not less than two members of said board of managers, and approved by the mayor; and the said city council [municipal assembly] is hereby authorized to erect upon the following described lot of ground or parcel of land, to wit: block numbered eighty of the common of St. Louis, according to the survey and plat thereof made by Charles DeWard, such buildings and improvements, in addition to those now on said land, as may be suitable for a house of refuge for the confinement and reform of juvenile offenders, and for this purpose, when so required by the board of managers, may issue the bonds of the city of St. Louis to an amount not exceeding fifty thousand dollars, of such style and for such time as the council [assembly] may direct, or otherwise provide said amount: *Provided*, That the mayor and common council [municipal assembly] of the city of St. Louis may provide by ordinance for the sale of the property described above, and for the erection, with the proceeds of such sale, and with the money provided for by this act, of suitable buildings at any other place in the county [city] of St. Louis. (Laws 1873, p. 355, sec. 9. R. S., p. 2555.)

Sec. 364. Superintendent and matron.—A superintendent and matron may be appointed by said board for said house of refuge, who shall hold their office during the pleasure of said board unless sooner removed by the mayor, with the consent of the council [assembly], and the compensation of such superintendent and matron may be fixed by said board, subject to the approval of the council [assembly]; said board may also appoint such other employes as may be necessary; said superintendent shall render to said board of managers a monthly statement of all moneys by him received and paid out on behalf of said house of refuge, which shall be carefully inspected by at least two members of said board; and, if found to be in all respects correct, the same shall be approved. Said board shall keep a record of their proceedings, and shall report semi-annually to the city council [municipal assembly] of the city of St. Louis, the fiscal affairs, management and condition of the said house of refuge. (Laws 1873, p. 356, sec. 10. R. S. 1899, p. 2556.)

Sec. 365. House to be open to visitors.—Said house of refuge shall be open to visitors at reasonable hours, and shall be conducted in a manner entirely non-sectarian, and yet open to ministers of every denomination, and with a discipline suited to the government of children; but no clergyman or teacher of any religious sect or denomination shall be appointed a manager of said house of refuge, nor shall said house of refuge be in any manner placed under the management or control of any religious sect or denomination. No child shall be compelled to perform severe or exhaustive labor, and any cruelty or unnecessary harshness by any officer or employe shall be followed by the immediate discharge of such officer or employe. The board shall provide educational facilities, and some suitable employment for the inmates of said house of refuge; and all moneys derived from said employments, or in any other manner from the operation of said house of refuge, shall be promptly paid into the city treasury; and the semi-annual reports of the board of managers, which they shall make to the city and county, shall give a detailed statement of said collection. (Laws 1873, p. 356, sec. 11. R. S. 1899, p. 2556.)

Sec. 366. Certain inmates to be kept separate.—Said board of managers shall as far as may be possible, establish, and it is hereby made their special duty to establish apartments and grounds for inmates of said house of refuge committed there under sentence of court, as in section 6 hereinbefore provided, or inmates deemed by the superintendent especially vicious or ungovernable, separate and apart from the remainder of said inmates; and it is made the special duty of said managers and superintendents to prevent all contact and association between said classes hereinbefore mentioned, so far as may be practicable. (Laws 1873, p. 356, sec. 12.)

Sec. 367. Present board to cease, when.—Immediately upon the organization of the board herein authorized, the terms of the office of the existing board of managers of said house of refuge and its present officers shall cease and determine; and all books, papers and property belonging to said house of refuge shall be turned over to the board appointed under this act. (Laws 1873, p. 356, sec. 13. R. S. 1899, p. 2556.)

Sec. 368. **Inconsistent acts repealed.**—All acts heretofore enacted in reference to the St. Louis house of refuge, and all acts and parts of acts inconsistent with or contrary to the provisions of this act, are hereby repealed. (Laws 1873, p. 356, sec. 14.)

CHAPTER FIFTEEN.

LAWS—CONSTRUCTION.

Section 369. **Certain funds to be paid out of city treasury.**—All moneys required to be paid out of the county treasuries of the different counties of this state by an act entitled "An act to amend section twenty-seven of chapter eighty-five of the General Statutes of eighteen hundred and sixty-five," approved March 4, 1868, shall, in the city of St. Louis, be paid out of the city treasury of said city. (Laws 1877, p. 191, sec. 3. R. S. 1899, p. 2562, sec. 1.)

Sec. 370. **Municipal assembly to perform duties of county court.**—All acts and parts of acts which provide for the performance of any duty or trust by any county court in this state, shall also include the municipal assembly, and the mayor and comptroller of the city of St. Louis. (Laws 1877, p. 187, sec. 2. R. S. 1899, p. 2562, sec. 2.)

Sec. 371. **Certain laws to apply to St. Louis.**—All laws requiring any officer of any county to perform any duty, service or trust, under the laws of this state, shall include all corresponding city officers named in the charter and scheme of separation for the government of the city and county of St. Louis. (Laws 1877, p. 187, sec. 4. R. S. 1899, p. 2562, sec. 3.)

Sec. 372. **Duties of the county clerk to be performed by the register.**—All laws providing for the performance of any duty, service or trust, by any county clerk, shall apply to the register of the city of St. Louis, as if such officer was specially named in such law, acts or parts of acts. (Laws 1877, p. 187, sec. 3. R. S. 1899, p. 2562, sec. 4—*r*.)

Sec. 373. **Rules for construing statute.**—The construction of all statutes of this state shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the legislature, or of the context of the same statute: * * * * * eighteenth, whenever, under the provisions of any law which shall be applicable to the city of St. Louis, as to the counties of this state, any act or duty shall be authorized or required to be performed by the clerk of the county court, such act or duty shall be performed by the register of the said city of St. Louis and the term "county clerk" shall be construed to include the register of the city of St. Louis, so far as the same relates to any act or duty required to be performed in said city, similar in character to that required of such county clerk in the respective counties of this state: nineteenth, whenever the word "county" is used in any law, general in its character to the whole state, the same shall be construed to include the city of St. Louis, unless such construction be inconsistent with the evident intent of such law, or of some law specially applicable to such city; twentieth, wherever the term "justice of the county court" shall appear in any statute, it shall be construed to mean judge of such court, and when the term "county or circuit attorney" shall be used in any law it shall be construed to mean prosecuting attorney, except when applied to the circuit attorney of the city of St. Louis; * * * * * (R. S. 1899, sec. 4160—*s*.)

CHAPTER SIXTEEN.

LIBRARIES, FREE PUBLIC.

Section 374. **Directors.**—When any incorporated city containing over three hundred thousand inhabitants shall have decided to establish and maintain a public library and reading-room under the act entitled "An act relating to libraries in cities, villages, towns and townships," approved April 10, 1885, the mayor of such city shall, with the approval of the city council, proceed to appoint a board of nine directors for the same, chosen from the citizens at large, with reference to their fitness for such office; and no member of the municipal government shall be a member of said board: Provided, that not more than five of such directors shall be members of the same political party. (Laws 1895, sec. 1, p. 220. R. S. 1899, sec. 6481.)

(*r*) See notation R. C. 2062 and note introductory to Charter Art. I.

(*s*) Subdivision 18: see notes to Rev. C. Sec. 2062; Subdivision 19: See Henderson vs. Koenig, 168 Mo. loc. cit. 363; St. Louis v. Clabby, 88 Mo. 573; State ex rel. vs. Wilder, 198 Mo. 1. c. 173; State ex rel. vs. Dillon, 87 Mo. 487; Bank v. Umrath, 55 Mo. App. 1. c. 48. See further note introductory to Charter, infra, "General Considerations respecting the Charter."

Sec. 375. Term of office—removal.—Said directors shall hold office, one-third for one year, one-third for two years and one-third for three years, from the first of June following their appointment, and at their first regular meeting shall cast lots for their respective terms; and annually thereafter, the mayor shall, before the first of June of each year, appoint, as before, three directors, who shall hold office for three years, and until their successors are appointed. The mayor may, by and with the consent of the city council, remove any director for misconduct or neglect of duty. (Ib., sec. 2. R. S., sec. 6482.)

Sec. 376. Vacancies—compensation.—Vacancies in the board of directors, occasioned by removals, resignations or otherwise, shall be reported to the mayor, and be filled in like manner as original appointments, and no director shall receive compensation as such. (Ib., sec. 3. R. S. 1899, sec. 6483.)

Sec. 377. Duty of directors—appointment of officers of the board—powers of the board.—Said directors shall be known and styled in their corporate name as the board of directors of the public library, and in such name may exercise the powers hereinafter granted. They shall, immediately after appointment, meet and organize by the election of one of their number as president, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance, and for the government of the library and reading-room, as may be expedient, not inconsistent with this and the aforesaid act. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, and of the construction of any library building, and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose. Provided, that all moneys received for such library shall be deposited in the treasury of said city, to the credit of the library fund, and shall be kept separate and apart from other moneys of such city, and drawn upon by the proper officers of said city, upon the properly authenticated vouchers of the library board. Said board shall have power to purchase, hold or lease grounds, to occupy, lease or erect an appropriate building or buildings, for the use of the said library, and to issue bonds, secured by deed of trust on any land [of] which they may be possessed, for the purpose of erecting library buildings, and for no other purpose; and all property by such board purchased, or otherwise obtained, shall vest in such board as a body corporate, and be held by it in trust. They shall have power to appoint a suitable librarian and necessary assistants, and fix their compensation, and shall also have power to remove such appointees; and shall, in general, carry out the spirit and intent of this and the aforesaid act in establishing and maintaining a public library and reading-room. (Ib., sec. 4. R. S. 1899, sec. 6484.)

Sec. 378. Board shall make annual report to the mayor—what report shall contain.—The said board of directors shall make, on or before the second Monday in June, an annual report to the mayor, stating the condition of their trust on the first day of May of that year, the various sums of money received from the library fund and from other sources, and how such moneys have been expended and for what purposes; the number of books and periodicals on hand, the number added by purchase, gift or otherwise, during the year; the number and general character and kind of such books, with such other statistics, information and suggestions as they may deem of general interest. All such portions of said report as relate to the receipt and expenditure of money, as well as the number of books on hand, books lost or missing, and books purchased, shall be verified by affidavit. (Ib., sec. 5, p. 221. R. S. 1899, sec. 6485.)

Sec. 379. Cities to pass ordinances to impose penalties.—The said cities shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon such library, or the grounds or other property thereof, and for injury to or failure to return any book belonging to such library. (Ib., sec. 6, p. 221. R. S. 1899, sec. 6486.)

Sec. 380. Inconsistent acts repealed.—All acts and parts of acts inconsistent with this act are hereby repealed. (Ib., sec. 7, p. 221.)

Sec. 381. Emergency clause.—There being no adequate provisions for the government and protection of free public libraries in cities containing over three hundred thousand inhabitants, an emergency is created within the meaning of the constitution; therefore, this act shall take effect and be in force from and after its passage. (Ib., sec. 8, p. 221.)

CHAPTER SEVENTEEN.

LICENSE COLLECTOR.*

Sec. 382. Office of license collector in cities of 300,000 inhabitants or over created.—The office of license collector is hereby created in cities now having or which hereafter may have three hundred thousand inhabitants or more. (Laws 1901, p. 80, sec. 1.)

Sec. 383. Providing for election of license collector—term of office—oath and bond, where filed, vacancy, how filled.—On the Tuesday next following the first Monday in November, A. D. 1902, and every four years thereafter, there shall be elected in said cities, in the manner provided by law for the election of city officers, a license collector, who shall hold his office for the term of four years, and until his successor is elected and qualified; he shall take the oath of office required of state officers, and give bond to such city in the sum of twenty-five thousand dollars, conditioned that he will faithfully and punctually collect and pay over all revenue for licenses and license tax collected and received by him, and in all things faithfully perform the duties of the office of license collector according to law and the ordinances of said city, to be approved by the mayor; and said oath and bond to be filed in the office of the city register of such city. Vacancies in said office of license collector from any cause shall be filled by the governor, from and until the end and expiration of the term in which the vacancy is created. Said license collector shall have his office in the city hall in such rooms as may be designated for the purpose by the proper authority. (Ib., sec. 2.)

Sec. 384. Powers and duties of license collector.—The said license collector shall have exclusive authority in all such cities to issue all licenses and receipts for license taxes, except water, dramshop and boat or wharf licenses; he shall have authority to revoke any license by him granted, if the person to whom the license has been issued, shall have been convicted of the violation of any law or ordinance relative to such licenses. It shall be his duty to prevent any persons carrying on any business, object or calling for which a license or license tax is required, without having a license or license receipt for that purpose; and he shall report to the police court of such city all violations of law and ordinances relating to licenses and license taxes. No commissions or fees shall be paid or allowed said license collector, or any state or city officer for the collection of any licenses or license tax to which this act applies. (Ib., sec. 3.)

Sec. 385. City collector or commissioner shall turn over all books, etc., to license collector—further duties of license collector.—It shall be the duty of the license collector, immediately after taking charge of his office, to obtain from the city collector, license commissioner or other officer of such city, and it is hereby made their duty to transfer to said license collector all books, papers, data and blanks relating to the assessing, levying, issuing, transferring and revoking of licenses and license taxes, and he shall at once proceed to obtain a complete list of all persons, firms, associations and corporations who are required by law, or ordinance, to obtain a license, or pay a license tax, and collect all information which may be necessary for the proper assessing, levying and issuing of licenses and license taxes. Such lists and information shall be kept in proper books and at all times as complete and correct as possible and up to date, in said office of license collector. (Ib., sec. 4, p. 81.)

Sec. 386. Proceedings necessary in obtaining and granting licenses.—To obtain a license or to pay a license tax the person making application therefor shall accompany his application with such statements and affidavits as may now or hereafter be required by law or ordinance; the license collector, as soon thereafter as practicable, shall give to the applicant a statement that, upon the payment of the amount of the license or license tax required by law or ordinance to be paid, a license or tax receipt, as the case may be, will be issued to such applicant. Upon the receipt of said statement, the applicant shall pay to the license collector the amount named in such statement, taking therefor duplicate receipts, one of which shall be by him filed with the city auditor, and the license collector shall thereupon issue the license or license tax receipt to the applicant for the period required by law or the ordinances of such city. (Laws 1901, p. 81, sec. 5.)

Sec. 387. License collector shall keep separate records of the several classes of licenses issued—records open to public inspection.—The license collector shall keep a separate record or book for each kind of license, or tax receipt which he is

*This act supersedes the provisions of the Charter, Art. V, Sec. 31 and Art. IV, Sec. 24, in so far as they impose on the City Collector the duty to collect the license taxes, the collection of which by this act is cast upon the License Collector. The duties formerly resting on the License Commissioner are also transferred to the License Collector. See in connection herewith Rev. Code, Chap. 30, constituting Secs. 2104 to 2125 and see notations thereto. Also as to the [City] Collector Rev. C., Secs. 2288 et seq.

authorized to issue, in each of which shall be recorded the names of all applicants for such licenses, the place at which the applicant is permitted to conduct the business authorized, if the license is for such purpose, otherwise the place of business or residence of the applicant, and the date of issuance of the license, all of which shall be public and open to the inspection of any citizen; he shall also keep all statements and affidavits furnished him in his office for public reference and the convenience of the officers of such city. (Ib., sec. 6.)

Sec. 388. Powers and duties of city collector or commissioner transferred to the license collector.—Every person, firm, association or corporation, shall owe to the license collector all and every duty now due by law or ordinance to the city collector of the revenue or to the license commissioner, or other city officer of such city, with respect to the assessment, levy, issue, transfer or revoking of licenses, or license taxes, for any purpose whatever; all and every duty of said city collector, license commissioner and other officer of such city imposed by law or ordinance with respect to the assessment levy, issue, transfer or revoking of license or license taxes for any purpose whatever is hereby transferred to the office of license collector created by this act. (Ib., sec. 7.)

Sec. 389. The words "license" and "license tax" shall include what.—The words "license" and "license tax," used in this act, shall include licenses for all purposes authorized or required by law or ordinance and also the tax on telegraph and telephone poles, the dog tax, the merchants' ad valorem tax, the vehicle license tax and the special tax on foreign insurance companies, and excepting alwasy dramshop, water and boat or wharfage licenses. (Ib., sec. 8.)

Sec. 390. Salary of license collector—Shall appoint deputies, clerks and inspectors, compensation of each—may administer oaths—collector responsible for official acts of employees.—The license collector shall receive a salary of three thousand dollars a year, payable monthly by the city treasurer. Said license collector shall appoint one chief deputy and one assistant deputy license collector, either of whom, in the absence for any cause of the license collector, may perform all the duties of the license collector; he shall appoint such clerks as may be required and necessary to properly and efficiently perform the duties of the office, not to exceed six, and may also appoint inspectors not to exceed ten. The salary and compensation of said employes is hereby fixed, as follows: The chief deputy at the rate of eighteen hundred dollars a year; assistant deputy at the rate of fifteen hundred dollars a year; clerks at the rate of one hundred dollars a month; inspectors at the rate of seventy-five dollars a month, all payable monthly and by the treasurer of such city. Said license collector, deputy license collectors and clerks are hereby authorized to administer oaths in the transaction of the business of the office. The license collector and his sureties shall be responsible for the official acts of all employes appointed by him. (Ib., sec. 9—t.)

Sec. 391. Collector shall make weekly payments to city treasurer—duty of treasurer.—The said license collector shall, on Monday of each week, pay to the treasurer of such city all moneys received by him for licenses and license tax; said treasurer shall issue duplicate receipts therefor, one of which he shall deliver to the license collector, the other to the auditor of such city. (Ib., p. 82, sec. 10.)

Sec. 392. Mayor shall appoint license collector—term of office.—Immediately on the taking effect of this act the mayor of the City of St. Louis shall appoint a license collector under this act, who shall hold his office for a term ending on the first day of January, A. D. 1903, and until his successor is elected and qualified. (Laws 1901, p. 82, sec. 11.)

CHAPTER EIGHTEEN.

LIQUORS.

Sec. 393. Register's duties.—When spirituous or alcoholic liquors are to be sold or offered for sale, are to be manufactured or rectified, in the city of St. Louis, the oath required by sections 2289 and 2290, Revised Statutes 1899, shall be administered by the register of the city of St. Louis, who is authorized and required to administer said oath, and said register is required to take the bond prescribed in section 2290. (Laws 1877, p. 341, sec. 1; R. S. 1899, p. 2563, sec. 10.)

(t) See additional employes, Rev. Code, Secs. 2119-2120 and note thereto.

CHAPTER NINETEEN.

MARKETS, PUBLIC.*

Sec. 394. **Public markets to be established in cities of 300,000 inhabitants for farm products.**—It shall be the duty of the mayor and municipal assembly or council in all cities of three hundred thousand inhabitants or over, or which may hereafter attain a population of three hundred thousand or over, to establish and locate a market for the sale, at wholesale or retail, of fruits, vegetables and other farm or dairy products. (Laws 1891, p. 66, sec. 1; R. S. 1899, sec. 6248.)

Sec. 395. **Business regulated by ordinance—privileges extended only to producers.**—Such mayor and municipal assembly shall, by ordinance, regulate the business to be conducted and carried on in such market, and fix a yearly rental to be charged for stands or stalls in said market: *Provided, however,* that no privileges shall be let to any person or persons to do business in said market in the sale of any garden, farm, fruit or dairy products, except the producer thereof. (Ib., sec. 2; R. S. 1899, sec. 6249.)

Sec. 395a. **When not to sell market places now owned.**—No city amenable to the provisions of sections 6248 and 6249 of the Revised Statutes of Missouri, 1899, now owning a public market place or public market places, or which shall hereafter acquire a public market place, shall be permitted to disburse or use for other purposes any of the proceeds received from the sale or disposition of such market place or market places, unless such said city shall have, prior thereto, acquired the necessary ground for the establishment of a market place or market places, as contemplated in said sections 6248 and 6249, and which ground shall be of dimensions commensurate with the requirements of said city, and not to exceed in cost the sum of \$1,000,000, and unless said city shall, prior thereto, have made provisions for the establishment and maintenance of a market place or market places on such grounds, as is contemplated in sections 6248 and 6249. (Laws 1907, p. 115.)

Sec. 395b. **Lands may be condemned for market places, when.**—In the event any city amenable to the provisions of sections 6248 and 6249 shall fail to provide a market place or market places of the dimensions set out in section 6249a, any corporation composed of five or more residents of this state, organized under the laws of the state of Missouri, for the purpose of establishing a market or markets, as contemplated by said section 6248, shall have the power to condemn lands or other property, or any interest therein, to be the amount set out in section 6249a, for use by it in establishing and maintaining such market place or market places, in the same manner and with like effect as provided in sections 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272 and 1273, Revised Statutes of Missouri, 1899. (Laws 1907, p. 115.)

CHAPTER TWENTY.

MEDICINE AND SURGERY.

Sec. 396. **Duty of County Clerk Cast on Health Commissioner.**—Whenever in this act [act of 1901, p. 207, regulating practice of medicine and surgery, as amended acts 1907, p. 359] it is provided that any duty or service shall be performed by any county clerk, such duty or service in the city of St. Louis shall be performed by the health commissioner, as if said officer was specially named to perform these duties and services, and said officer shall receive the same compensation therefor as this act provides shall be paid to the county clerk: *Provided,* further, that whenever in this act the word county is used it shall include the city of St. Louis the same as if said city were specially named. (Laws 1901, p. 207, sec. 8.)

CHAPTER TWENTY-ONE.

MONEY, PUBLIC.**

Section 397. **Bank for deposit to be selected—bond—amount.**—In all cities in Missouri having three hundred and fifty thousand inhabitants or more, the mayor, comptroller and treasurer shall annually select a bank or banks which will give the highest rate of interest for the current deposit of the city's funds: *Provided,* however, that before any deposit shall be made by the treasurer, the bank shall give a bond for five hundred thousand dollars, with good and sufficient sureties, to be approved by the unanimous vote of the mayor, comptroller and treasurer, for the safe keeping and prompt payment of said funds, or any part thereof,

*See as to the city ordinances, Rev. Code, Chap. 16, Sections 1415 to 1486, concerning Markets, and notes thereto.

**See Charter, Art. IV, Sec. 22.

when demanded by the treasurer, and shall at all times keep the sureties on its bond satisfactory to the mayor, comptroller and treasurer; and provided further, however, that before any greater amount or sum than five hundred thousand dollars shall be deposited by the treasurer in any bank, such bank shall give an additional bond for five hundred thousand dollars, with good and sufficient sureties to be approved by the unanimous vote of the mayor, comptroller and treasurer, for the safe keeping and prompt payment of said funds or any part thereof when demanded by the treasurer, and shall at all times keep the sureties on its bond satisfactory to the mayor, comptroller and treasurer; and provided further, that no greater sum than one million dollars of the money of the city shall be on deposit in any one bank. (Laws 1903, p. 95, sec. 1; amending R. S. 1899, sec. 6251.)

Sec. 398. Emergency.—The fact that the city of St. Louis is about to deposit a large sum of money and it is for the benefit of said city that it have choice of a large number of depositories creates an emergency within the meaning of the constitution; therefore this bill shall be effective immediately upon its approval by the governor. (Ib., sec. 2.)

CHAPTER TWENTY-TWO.

MORGUE, ESTABLISHMENT OF.

Sec. 399. Morgue may be established.—The city of St. Louis and the county of St. Louis are hereby authorized, jointly, to provide for the erection and maintenance, at some point within the corporate limits of said city, of a morgue or dead-house for the reception of the corpses of persons unknown, or not readily identified, and found dead within said [city] county. The expense of erecting and maintaining said morgue shall be paid, one-half by said county and the other half by said city, according to such plans as may be agreed on by the county court of said county and the city council of said city; and said court and council may, by like agreement, and from time to time, make and alter regulations for the control and management of said morgue, and for the employment of a person or persons to take care thereof. It shall be the duty of the coroner of said county [city] to view, and if necessary, hold a formal inquest on, the body of every dead person brought to said morgue; and the county court [municipal assembly] of said county [city] may, in his discretion, assign him a fixed salary for such services, in lieu of his statutory fee in like cases. (Laws 1873, p. 357, sec. 1; R. S. 1899, p. 2563, sec. 9—*u.*)

CHAPTER TWENTY-THREE.

PARKS.*

Sec. 400. Tower Grove Park described.—As much and such portions of the following described tracts or parcels of land, partly within and mostly without the present corporate limits of the city of St. Louis, to wit: Bounded by Grand avenue on the east, Arsenal street or road on the south, Magnolia avenue, as now existing, on the north, and the King's highway, so called, on the west, in the city and county of St. Louis, as Henry Shaw may see fit to give, grant and convey to the city of St. Louis, for the purposes of a public park, shall be known and designated as the Tower Grove Park of St. Louis. (Session Laws 1867, p. 172, sec. 1.)

Sec. 401. Board of commissioners.—The said park shall be under the exclusive control and management of a board of commissioners, to consist of not less than five nor more than seven persons, who shall be named and styled the commissioners of the Tower Grove Park, and who shall be appointed as hereinafter provided; but of which commissioners Henry Shaw, the donor to the city of St. Louis of the land for the said park hereby established, during his natural life, and after his death his successor, in the direction of the Missouri Botanical Garden, as he may create the same in any devise or conveyance which he may be authorized by law to make, shall be and constitute one member. (Session Laws 1867, p. 173, sec. 2.)

Sec. 402. How constituted.—The following named person, Henry Shaw, and such persons as he may select, shall constitute the board of commissioners of said park. They shall hold their offices as such commissioners for five years from the time of the passage of this act, and until their successors are appointed and quali-

(*u*) For ordinance provisions concerning Morgue, see Rev. Code, Chap. 3, Art. 2, being sections 258 to 268, inclusive. Also 450.

*Acts to Establish Forest Park (March 25, 1874,) Carondelet Park (Feb. 25, 1874) and O'Fallon Park, (March 25, 1874) are "repealed" by Charter Art. VIII, Sec. 6. See as to the various ordinance provisions concerning parks. Rev. Code, Chapter 25, and note to Chapter heading and sections 2018 to 2035 with notations thereto, and references to the charter provisions there found; also R. C. sections 1970 to 1975; Sec. 2157 and note. Charter Art. VIII.

fied. No member of said board shall receive any compensation for his services, but each commissioner shall, nevertheless, be entitled to receive for his personal expenses, in visiting and superintending the said park, a sum not exceeding one hundred dollars per annum. (Ib., sec. 3.)

Sec. 403. **Quorum.**—A majority of the said commissioners, in office for the time being, shall constitute a quorum of the board for the transaction of business, but no action of the board shall be deemed final or binding, unless it shall have received the approval of a majority of the board, whose names shall be recorded in the minutes. (Ib., sec. 4.)

Sec. 404. **Duties of the board.**—The said board shall have the full and exclusive power to govern, manage, direct and control the said park; to lay out and regulate the same; to pass ordinances for the regulation and government thereof, not inconsistent with the ordinances and regulations of the corporation of St. Louis; to appoint such engineers, surveyors, clerks, and other officers as may be necessary; to prescribe and define their respective duties and authority, fix the amount of their compensation, and generally, in regard to said park, they shall possess all the power and authority which now is, or which may hereafter be, by law conferred upon or possessed by the corporation of St. Louis in respect to the public squares and places in said city. (Ib., sec. 5.)

Sec. 405. **Ordinances, etc., concerning, to be published.**—All ordinances, rules and regulations which may be passed and adopted by the board of commissioners for the regulation, use and government of said park shall, immediately upon their passage, be published for ten days in three daily newspapers published in said city to be selected by said commissioners, one whereof shall be a newspaper published in the German language. (Ib., sec. 6.)

Sec. 406. **Penalty for violating ordinances.**—All persons offending against such ordinances shall be deemed guilty of a misdemeanor, and be punished, on conviction, before the police justice of said city, or any justice of the peace in the county of St. Louis, by a fine not exceeding fifty dollars, and in default of payment, by imprisonment not exceeding thirty days. (Ib., sec. 7.)

Sec. 407. **Penalty against commissioner.**—It shall be a misdemeanor for any commissioner to be, directly or indirectly, in any way pecuniarily interested in any contract for work of any kind whatever connected with said park, and it shall be the duty of any commissioner, or other person who may have knowledge or information of the violation of this provision, forthwith to report the same to any judge of the circuit court of St. Louis county. Such judge shall hear, in a summary manner, such charge, and any evidence which may be offered in support thereof; and if after such hearing he shall be satisfied of the truth thereof he shall immediately, by his order in writing in such matter, remove the commissioner thus offending. Every commissioner shall before entering upon the duties of his office, take and subscribe the same oath prescribed by the constitution of the State to civil officers, and which oath, when subscribed, shall be filed in the office of the clerk of the county court of the county. (Ib., sec. 8.)

Sec. 408. **Bond may be issued.**—The city of St. Louis is hereby authorized and required, immediately after the passage of this act, to cause to be issued its bonds in the sum of one thousand dollars each, payable at such time or times, not less than five nor more than thirty years from the date thereof, as the mayor and fund commissioner of said city shall deem best, to an amount sufficient to realize on a sale on the best possible terms the sum of three hundred and sixty thousand dollars, which bonds shall bear interest at the rate of six per cent per annum, payable semi-annually, and shall have attached to them semi-annual coupons for the payment of said interest. Said bonds shall be entitled and designated on their face, "Park Bonds of the City of St. Louis;" shall be payable where the said mayor and fund commissioner shall designate on their face; shall be signed by the mayor and countersigned by the comptroller of the city, shall have the seal of said city affixed thereon, and be binding and obligatory on said city as an indebtedness thereof generally. (Laws 1867, p. 174, sec. 9.)

Sec. 409. **Bonds how sold.**—Said bonds shall be sold by the said mayor or by some person duly authorized by him to sell the same, and the proceeds thereof shall at once be paid over into the hands of the aforesaid commissioners of the Tower Grove Park. (Ib., sec. 10.)

Sec. 410. **Moneys where deposited.**—The moneys raised upon the fund or stock hereby authorized, as well as other moneys by them received and as soon as received, shall, by the said commissioners, be deposited to their credit in any bank or banks of St. Louis to be designated by the board. Such bank or banks shall allow interest upon such deposits as may be agreed upon with said board, and shall open and keep an account with said board, and no moneys shall be drawn therefrom, except upon a warrant signed by at least a majority of the commissioners in office, and all receipts and vouchers shall be filed in the office of said board. (Ib., sec. 11.)

Sec. 411. **Moneys how applied.**—The said commissioners shall apply and use the said moneys so coming to their hands, in the fencing, improving, ornamenting,

and beautifying of said park, in such manner as in their judgment will best serve to make said park a place of recreation in the resort of the people thereto; but the amount expended in any one year as aforesaid in said park, shall not exceed one-third of the said amount so authorized to be paid over to them from the proceeds of the sale of the aforesaid bonds. (Ib., sec. 12.)

Sec. 412. Taxes to be levied.—The city of St. Louis and the county of St. Louis, after the expiration of three years after the passage of this act, shall order and cause to be raised by tax on the estates, real and personal, subject to taxation according to existing laws within said city and county, and to be collected in addition to the ordinary taxes yearly, and every year following, a sum of money sufficient and equal to the sum of twenty-five thousand dollars in specie funds, to be a perpetual fund for the keeping up, maintaining and improving the said public park, one-third of which annual sum shall be levied out of the taxable estates as aforesaid within the county of St. Louis, outside of the limits of the city of St. Louis, and the remaining two-thirds of which annual sum shall, in like manner, be levied within the limits of said city. (Ib., sec. 13.)

Sec. 413. Avenues to be widened.—It is hereby made the duty of the county court of St. Louis county, to cause Tower Grove avenue to be widened in its present extent to the width of sixty feet, and to be opened the same width on the same course till an intersecting with the Market street road; also to cause Magnolia avenue to be opened from Grand avenue, and also to cause the same to be widened to a width of seventy feet, the additional width of twenty feet to be taken from the south side of said avenue. (Ib., sec. 14.)

Sec. 414. Proceedings therefor.—The proceedings for opening and widening said avenues and roads, shall be had and pursued in the same manner as is or may be provided by law for the opening, widening or establishing of roads, public or private, in said county. (Ib., sec. 15.)

Sec. 415. Avenues to be improved.—As soon as the roads mentioned in the last preceding sections shall be widened, opened and established, as herein provided, or as soon thereafter as practicable, the said county court shall cause Shaw avenue, Tower Grove avenue and Floral avenue, as now known and as the same shall be established, to be macadamized and improved in the same manner as other public roads in said county are macadamized and improved. (Ib., sec. 16.)

Sec. 416. Debts to be incurred only with authority of board.—None of the said commissioners, nor any person, whether in the employ of said commissioners or otherwise, shall have the power to create any debt, obligation, claim or liability for or on account of said board or the moneys or property under its control, except with the express authority of said board conferred at a meeting thereof duly convened and held. (Ib., sec. 17.)

Sec. 417. Board may hold gifts, etc.—The said board is hereby authorized to take and hold any gifts, devises or bequests that may be made to said board, upon such trusts and conditions as may be prescribed by the donors or grantors thereof, and agreed to by said board, for the purpose of embellishing or ornamenting said park, and shall annually make in its report a statement in detail of the conditions and value of all such gifts, devises or bequests, and of the names of the persons by whom the same are so given, devised or bequeathed. (Ib., sec. 18.)

Sec. 418. Gunning, etc., prohibited.—Gunning or the discharging of firearms in St. Louis city or township, within the limits of one mile of said park in any direction, is hereby prohibited, and any person who shall violate this provision of law shall be deemed guilty of a misdemeanor, and, on conviction before the police magistrate of the city of St. Louis, or any justice of the peace of St. Louis county, shall be subject to a fine of twenty dollars, and in default of payment of such fine to imprisonment in the county jail of the county not less than ten nor more than twenty days. (Ib., sec. 19.)

Sec. 419. Cattle prohibited at large.—All persons are, in like manner, within the limits in the preceding section stated, prohibited from turning horses, cows, sheep, swine or other cattle on the public highways, or other roads, or uninclosed lands, or from willfully permitting the same to go at large thereon for the purpose of grazing or any other purpose, under the penalty prescribed in said section, and to be enforced in like manner as therein prescribed. (Ib., sec. 20.)

Sec. 420. Office commissioner, vacant when.—The office of either of said commissioners who shall not attend the meetings of the board for three successive months, after having been duly notified of said meetings, without reasons satisfactory to said board, or without leave of absence from said board, may, by said board be declared vacant. (Ib., sec. 21.)

Sec. 421. Vacancy, how filled.—In case of any vacancy occurring in the membership of the board of commissioners from death, resignation or disqualification to act, the same shall be filled by the remaining members of the board for the residue of the term then vacant, and all vacancies caused by expiration of the term of office shall be filled by the appointment of the judges of the supreme court of the State for the time being, or a majority of them. (Ib., sec. 22.)

Sec. 422. **Board to report.**—The said board shall, annually, and in the month of January in each year, make to the city council of said city a full report of their proceedings, and a detailed statement of all their receipts and expenditures. (Ib., p. 175, sec. 23.)

Sec. 423. **Lands exempt from taxation.**—As soon as the said Henry Shaw shall grant and convey to the city of St. Louis, any land contained within the boundaries named in the first section of this act, the said land, and every part thereof so conveyed, so long as the same shall be held in fee by the said city of St. Louis, and, in consideration of such grant and conveyance by him, shall be exempt from the payment of all State, county, municipal or other taxation imposed or to be imposed under or by virtue of any law of this State whatsoever. (Ib., sec. 24.)

Sec. 424. **Additional bonds may be issued.**—The city of St. Louis is authorized in addition to the bonds authorized to be issued under the ninth section of this act, to issue other bonds of the same character and in the same manner as in said section provided, to the amount of not exceeding fifty thousand dollars, for the purchase of land adjoining to the land mentioned in the first section of this act, for the purposes of a public park and to form part of said Tower Grove Park, and which land if and when acquired by purchase, shall be held, governed and regulated as is, in all respects, provided by this act with reference to the aforesaid public park. (Ib., sec. 25.)

Sec. 425. **Levy of taxes for park.**—If for any years, the city of St. Louis, or the county of St. Louis shall have failed, or may hereafter fail to levy the proportional amount of the annual sum to be raised under the provisions of said section (section thirteen), [412 *supra*] to be levied by such city or county, then said city or county may include in and add to the levy of any succeeding year such amounts so omitted be levied, in addition to the amount to be levied for such succeeding year, and the whole amount shall be levied on estate, real and personal, subject to taxation according to existing laws within said city and county, in the year in which said levy shall be made. The said city of St. Louis shall levy upon said taxable estates, within its limits, two-thirds of said tax, and the remaining one-third shall be levied by the county court upon the taxable estates outside of said limits. The annual amount to be raised may be paid by the city, or the county, out of their general funds, each respectively, and in that event, the city or county so paying may add to its other rates of taxation for the same year a percentage sufficient to reimburse it for the sum so paid, without making it a direct tax; and the general tax thus augmented, may be assessed, levied and collected as provided by law for the time being. With the assent of the city of St. Louis the county court of St. Louis [county] may levy the whole of said tax on the taxables of the entire county, without sub-dividing the tax between the city limits and the portion of the county beyond them. At the time of assessing in any of the modes hereinbefore set forth, the rate of the equivalent of gold shall be fixed by the city or county respectively assessing the same. The powers in this act given to said county of St. Louis shall be exercised or not by their respective authorities at their discretion and such arrangements as they may severally make, if they deem necessary, with the grantor and commissioners of said Tower Grove Park. (Session Laws 1872, p. 469, sec. 1.)

Sec. 426. **Slaughter houses, etc., prohibited, where.**—The erection of slaughter houses, tanneries, skin-dressers' shops or establishments, bone factories, bone burners' establishments, chemical works, candle factories, soap factories, tallow chandlers' establishments and within the limits of one-quarter of a mile in any direction from the exterior lines of Tower Grove Park, in the city or county of St. Louis, as the same is now laid out, is hereby prohibited. And if the said park shall hereafter be extended so as to include additional land, such erections are also hereby prohibited within the limits aforesaid, from the exterior lines of said park as the same may be extended, as soon as such extension shall be made. And any person making any such erection, or carrying on business at or in the same within the above limits, and in violation of the above provisions, shall be deemed guilty of a misdemeanor, and may be prosecuted therefor in the name of the city of St. Louis, before the police justice of the city of St. Louis, or before any justice of the peace of St. Louis county, or before the St. Louis court of criminal correction, and on conviction thereof shall be subject to a fine of not less than fifty nor more than five hundred dollars, which fine if collected, shall be paid to the city of St. Louis, and in default of payment of such fine, to imprisonment in the county jail of St. Louis county, or the work-house of the city of St. Louis not less than ten nor more than sixty days. (Session Laws 1871, p. 189, sec. 1.)

CHAPTER TWENTY-FOUR.

POLICE.

- Art. 1. The Police Act creating board and authorizing appointment of force.
 Art. II. Pensions of policemen.
 Art. III. Holidays to officers of police.
 Art. IV. Special police officer of Humane Society.

ARTICLE I.

THE POLICE ACT CREATING BOARD AND AUTHORIZING APPOINTMENT OF FORCE.*

Section 427. **Act of 1861 and amendatory acts repealed.**—An act entitled "An act creating a board of police commissioners and authorizing the appointment of a police force for the city of St. Louis," approved March 27th, 1861, and all acts supplementary to and amendatory thereof be and the same are hereby repealed. (Laws 1899, p. 51—*b*.)

Sec. 428. **Ordinances to be passed to protect persons and property.**—In all cities of this state that now have or may hereafter attain a population of three hundred thousand inhabitants or over, the common council or municipal assembly, as the case may be, of such cities may pass ordinances for preserving order, securing property and persons from violence, danger or destruction, protecting public and private property, and for promoting the interests and insuring the good government of such cities; but no ordinances heretofore passed or that may hereafter be passed by the common council or municipal assembly of such cities, shall, in any manner, conflict or interfere with the powers or the exercise of the powers of the boards of police commissioners of such cities, as hereinafter created, nor shall the said cities or any officer or agent of the corporation of said cities, or the mayor thereof, in any manner, impede, obstruct, hinder or interfere with the said boards of police or any officer, or agent or servant thereof or thereunder. (Ib., p. 51, sec. 2. R. S. 1899, sec. 6209.)

Sec. 429. **Boards of police commissioners established.**—In all cities of this state that now have or may hereafter attain a population of three hundred thousand inhabitants or over, there shall be, and is hereby established, within and for said cities, a board of police, to consist of four commissioners, as hereinafter provided, together with the mayor of said cities for the time being, or whosoever may be officially acting in that capacity, and said board shall appoint one of its members as president, and one member who shall act as vice-president during the absence of the president; and such president, or vice-president, shall be the executive officer of the board and shall act for it when the board is not in session. The said commissioners shall be citizens of the State of Missouri, and shall have been residents of the cities for a period of four years next preceding their appointment; they shall, except as hereinafter specified, hold their offices for four years, and until their respective successors shall have been appointed and qualified, and receive each a salary of one thousand dollars (\$1,000.00) per annum, payable monthly; before entering upon the duties of their said offices, the said commissioners and the said mayor, shall take and subscribe before some judge of the circuit court of judicial circuit in which said cities shall be located or the clerk thereof, the oath or affirmation prescribed by the constitution of the State of Missouri, and shall also take and subscribe before the same judge or clerk the further oath or affidavit that in any and every appointment or removal to be made by them to or from the police force created and to be organized by them under this article, they will in no case and under no pretext appoint or remove any policeman or officer of police or other person under them, on account of the political opinions of such police officer or other person, or for any other cause or reason than the fitness or unfitness of such a person, in the best judgment of such commissioners, for the place for which he shall be appointed, or from the place from which he shall be removed. The said oaths or affirmations shall be recorded and preserved among the records of the said circuit court. One of their number shall, from time to time, be appointed by the said commissioners treasurer of said board of police; and his appointment, when made, shall be certified to by the clerk of the circuit court of the judicial circuit in which said cities shall be located, under

*This police act was upheld by the Supreme Court in *State ex rel. vs. Mason*, 153 Mo. 23, its validity being fully sustained, and in this case as well as the later case of *State ex rel. vs. Stobie*, 92 Southw. 191; s. c. 194 Mo. 14, the history of the police acts were discussed in the opinions, as well as the principles upon which these acts rest. In the latter case Sec. 14 of the Scheme was held to be annulled in so far as it purported to confer authority on the St. Louis city police force to act in the county of St. Louis.

(*b*) The act of 1899 is really an amendment of the act 1860-1861, although it purports to repeal the latter: *State ex rel. vs. Mason*, 153 Mo. 25. But in so far as differing therefrom of course repeals the old law: *State ex rel. vs. Stobie*, 194 Mo. 14, (see both majority and dissenting opinions.)

the seal of said court. Said treasurer shall hold his office for such time as may be designated by the commissioners, who may remove him at pleasure. Before he enters upon the duties of his office as treasurer, he shall give bond to the State of Missouri, with one or more sureties, in the penalty of ten thousand dollars, conditioned for the faithful discharge of his duties as treasurer of the board of police, and for the faithful application and payment over, pursuant to the order and direction of said board, of all moneys which may come to his hands as such treasurer. The bond of the treasurer shall be approved by a judge of the circuit court of the judicial circuit in which said cities shall be located and shall be delivered to and safely kept by the treasurer of said cities. The boards shall appoint a secretary to act as such for the board of police commissioners, to serve for the same time and in the same manner as other officers, and such appointments shall be additional to the number of appointments hereinafter provided for: Provided, that his salary shall be determined and fixed by the boards of police commissioners, and no other provisions of this article shall apply in the determination of the amount of said salary. A majority of the boards of police shall constitute a quorum; and the failure or refusal of the mayor or acting mayor of said cities to qualify or act hereunder, shall in nowise impair the right or duty of said commissioners to organize and proceed as herein provided. In case a vacancy shall occur on said board, the same shall be filled by the governor of the State of Missouri forthwith, after having been notified that such vacancy exists. Anyone of said commissioners, who, during his term of office, shall accept any other place of public trust or emolument, or who, during the same period, shall knowingly receive any nomination for an office elective by the people, without publicly declining same within twenty days succeeding such nomination, or shall become a candidate for the nomination for any office at the hands of any political party, shall be deemed to thereby forfeit or vacate his office. Any of said commissioners may be removed by the governor of the State of Missouri upon his being fully satisfied that the commissioner is guilty of any official misconduct. (Ib., p. 52, sec. 3. R. S. 1899, sec. 6210—c.)

Sec. 430. Governor to appoint commissioners.—The governor of the State of Missouri, by and with the advice and consent of the senate, shall appoint the four commissioners provided for in section 3 of this article [sec. 429 above] and said commissioners shall hold their offices for four years and until their successors shall have been appointed and qualified. The governor shall issue commissions to the persons so appointed, designating the time for which they are appointed in case the appointment is to fill an unexpired term occasioned by death, resignation or any other cause, and whenever the term of office of any commissioner expires, the appointment of his successor shall be for four years. The commissioners now holding offices under existing laws in any city of this state to which this act applies, are to hold their offices until the expiration of their terms, and their successors are duly appointed and qualified. (Ib., p. 53, sec. 4. R. S. 1899, sec. 6211.)

Sec. 431. Duties of commissioners.—The duties of the boards of police hereby created shall be as follows: They shall, at all times of the day and night, within the boundaries of said cities, as well on water as on land, preserve the public peace, prevent crime and arrest offenders; protect the rights of persons and property; guard the public health; preserve order at every public election, and at all public meetings and places, and on all public occasions; prevent and remove nuisances on all streets, highways, waters and other places; provide a proper police force at every fire for the protection of firemen and property; protect emigrants and travelers at steamboat landings and railway stations; see that all laws relating to elections and to the observance of Sunday, and regulating pawnbrokers, gamblers, intemperance, lotteries and lottery policies, vagrants, disorderly persons, and the public health are enforced. They shall also enforce all laws and all ordinances passed or which may hereafter be passed by the common council or municipal assembly of said cities, not inconsistent with the provisions of this article or any other law of the State, which may be properly enforceable by a police force. In case they shall have any reason to believe that any person within said cities intends to commit any breaches of the peace, or violation of the law or order beyond the city limits, any person charged with the commission of crime in said cities and against whom criminal process shall have issued, may be arrested upon the same in any part of this state by the police force created or authorized by this act: Provided, however, that before the person so arrested shall be removed from the county in which such arrest is made he shall be taken before some judge or justice of the county, to whom the papers authorizing such arrest shall be submitted; and the person so arrested shall not be removed from said county, but shall forthwith be discharged, unless such judge or justice of the peace shall endorse and approve said papers. The said police commissioners, or either of them, shall have the power to administer oaths or affirmations in the premises, to any

(c) Under the act of 1860 the members of the police force are the executive officers of the board when it is not in session, and not the mayor: Francis vs. Blair, 96 Mo. 515.

person appearing or called before them. They shall also have the power to summon and compel the attendance of witnesses before them, whenever it may be necessary for the more effectual discharge of their duties. (Ib., p. 35, sec. 5. R. S. 1899, sec. 6212—d.)

Sec. 432. May appoint and employ permanent police force—number of—term, etc.—To enable the said boards to perform the said duties imposed upon them, they are hereby authorized and required to appoint, enroll and employ a permanent police force for the said cities, which they shall equip and arm as they may judge necessary. The number of policemen to be appointed shall not be less than twelve hundred and fifty patrolmen and one hundred and fifty probationary patrolmen; provided, however, that appointees constituting the increase of patrolmen authorized by this act shall serve one year as probationary patrolmen before attaining the rank of patrolmen; the number of detectives to be appointed shall not be less than twenty-five; the number of turnkeys to be appointed shall not be less than thirty-five, and in the appointment of such turnkeys, retired and disabled policemen shall be given the preference, together with the officers hereinafter mentioned, and such number may be increased to such additional force as extraordinary emergencies may require, and any act of the municipal assembly or common council tending to diminish the number of men above specified shall be null and void. The boards alone shall have the power to determine whether such extraordinary emergencies requiring additional patrolmen exist or not, and their finding in the matter is not subject to review by any other power. Said boards shall cause the force of sergeants, patrolmen and probationary patrolmen in such cities to be divided as equally as may be into three platoons, and thereafter eight hours shall constitute the time of regular service for the members of each platoon during any one day of twenty-four hours. Nothing herein, however, shall be so construed as to prevent the Board of Police Commissioners in any city from suspending the operation of such rule fixing the time of regular daily service of such police officers in case of existing emergencies, and said board shall have full power to determine the existence and duration of such emergencies, and its finding in respect thereto shall not be subject to review by any other power. No person shall be appointed or employed as policeman, detective, turnkey or officer of police who shall have been convicted of, or against whom any indictment may be pending for any offense, the punishment of which may be confinement in the penitentiary; nor shall any person be so appointed who is not of good character, or who is not a citizen of the United States or who is not able to read and write the English language, or who does not possess ordinary physical strength and courage. The patrolmen, detectives and turnkeys hereafter appointed shall serve while they shall faithfully perform their duties, and possess mental and physical ability, and be subject to removal only for cause at the hearing by the board who are hereby invested with the exclusive jurisdiction in the premises. (Laws 1907, p. 113, amending Laws 1903, p. 92, amending R. S. 1899, sec. 6213—e.)

Sec. 433. Officers of police—rank—number—bond.—The officers of police shall be as follows: One chief of police, with rank of colonel, who shall give bond, with security, in the penal sum of twenty thousand dollars (\$20,000), for the faithful performance of his duties; one assistant chief of police, with rank of lieutenant-colonel; one chief of detectives, with rank of major; one assistant chief of detectives, with rank of lieutenant; one inspector, with rank of major; one secretary of the chief; one superintendent of Bertillon system; fourteen captains; fourteen lieutenants, and one hundred and thirty sergeants. They shall have commissions issued to them by the board of police commissioners and those hereafter commissioned shall serve while they shall faithfully perform their duties,

(d) State vs. Boyd, 108 Mo. App. 1. e. 524-525; See also State ex rel. vs. Stobie, supra.

(e) As to the reasonableness of the number of the force (under the act of 1899 before the above amendment) see State ex rel. vs. Mason, 153 Mo. 23, also holding that there was no delegation of authority to the board contemplated to determine the number of men. The term for which a policeman is appointed was four years, and if he holds over after the expiration of that time it is not a new appointment by implication for another four years, but he becomes a mere *locum tenens*, and may be discharged by the board at will without notice, nor does the former provision giving an officer who has faithfully performed his duty a preference for reappointment change this result: State ex rel. Rife vs. Hawes, 177 Mo. 360 (overruling State ex rel. Campbell vs. Board, 14 Mo. App. 308, s. c. 88 Mo. 144, which held that where there was no definite period of appointment the law fixed it at four years). But during the term for which the officer was appointed he could not be removed without notice and a hearing, and if so illegally removed he could mandamus the board to issue a warrant for his salary: State ex rel. Gieselman vs. Hawes, 177 Mo. 387, following State ex rel. vs. Chapman, 153 Mo. 194. The tenure of a captain is not a definite term of four years but indefinite, depending on the pleasure of the board: State ex rel. Young vs. Hawes, 177 Mo. 393; State ex rel. vs. Huebler, 177 Mo. 398. As to removal of turnkeys see State ex rel. Bruce vs. Hawes, 177 Mo. 394; State ex rel. Rife vs. Hawes, 177 Mo. 360, 382 (holding that a turnkey held at the pleasure of the board).

and possess mental and physical ability, and be subject to removal only for cause after a hearing by the board, who are hereby invested with the exclusive jurisdiction in the premises. (Laws 1907, p. 114, amending R. S. 1899, sec. 6214—*f.*)

Sec. 434. **Compensation of police.**—The chief of police shall receive five thousand dollars (\$5,000.00) per annum, payable in monthly installments; the assistant chief of police shall receive thirty-eight hundred dollars (\$3,800.00) per annum, payable in monthly installments; the chief of detectives shall receive thirty-five hundred dollars (\$3,500.00) per annum, payable in monthly installments; the assistant chief of detectives shall receive eighteen hundred dollars (\$1,800.00) per annum, payable in monthly installments; the secretary of the police board shall receive a salary of twenty-five hundred dollars (\$2,500.00) per annum, payable in monthly installments; the inspector shall receive twenty-five hundred dollars (\$2,500.00) per annum, payable in monthly installments; the secretary to the chief shall receive two thousand dollars (\$2,000.00) per annum, payable in monthly installments; the superintendent of the Bertillon system shall receive eighteen hundred dollars (\$1,800.00) per annum, payable in monthly installments; each captain shall receive twenty-four hundred dollars (\$2,400) per annum, payable in monthly installments; each lieutenant shall receive fifteen hundred dollars (\$1,500.00) per annum, payable in monthly installments; each sergeant shall receive thirteen hundred and eighty dollars (\$1,380.00) per annum, payable in monthly installments; each detective shall receive thirteen hundred and eighty dollars (\$1,380.00) per annum, payable in monthly installments; each patrolman shall receive ten hundred and eighty dollars (\$1,080.00) per annum, payable in monthly installments; each probationary patrolman shall receive seven hundred and eighty dollars (\$780.00) per annum, payable in monthly installments; each turnkey shall receive seven hundred and eighty dollars (\$780.00) per annum, payable in monthly installments. The rate of salaries herein provided shall not be less than the amounts above enumerated, and any act of the municipal assembly or common council of the said cities tending to lower the above scale shall be null and void. It shall be the duty of the municipal assembly or common council of the said cities to make the necessary appropriation for the expense of maintenance of said police force in the manner hereinafter provided. (Ib., p. 55, sec. 8. R. S. 1899, sec. 6215.)

Sec. 435. **Vacancies, how filled—promotions—relief—rules, etc.**—When any vacancy shall take place in any grade of officers, it shall be filled from the next lowest grade: Provided, however, that probationary patrolmen shall serve at least one year as such before being promoted to the rank of patrolman; patrolmen shall serve at least three years as such before being promoted to the rank of sergeant; sergeants shall serve at least one year as such before being promoted to the rank of lieutenant; lieutenants shall serve at least one year as such before being promoted to the rank of captain; and in no case shall the chief or assistant chief be selected from men not members of the force or below the grade of captain. Patrolmen shall serve at least three years as such before promotion to the rank of detective; the inspector shall be taken from men in the rank not below the grade of lieutenant. The boards of police are hereby authorized to make all such rules and regulations, not inconsistent with this act, or other laws of the state, as they may judge necessary, for the appointment, employment, uniforming, discipline, trial and government of the police, and for the relief and compensation of members of the police force injured in person or property in the discharge of their duties, and the families of the officers or men killed while in such discharge of duty: Provided, that the allowance shall not exceed, in any one instance, twelve months' pay. The said boards shall also have power to require of any officer or policeman bond with sureties, when they may consider it demanded by the public interests. All lawful rules and regulations of the boards shall be obeyed by the police force on pain of dismissal, or such lighter punishment, either by suspension, fine, reduction or forfeiture of pay, or otherwise, as the boards may adjudge. (Ib., p. 55, sec. 9. R. S. 1899, sec. 6216.)

Sec. 436. **Police officers to receive no gratuity.**—No officer of police or policeman shall be allowed to receive any money or gratuity or compensation for any service he may render without the consent of the said boards; and all such

(*f*) As to holding over after term and removal with or without notice and preference for reappointment, see preceding note. The power to determine whether a policeman has faithfully performed his duties is vested in the board and is not subject to review by the court: *State ex rel. Rife vs. Hawes*, 177 Mo. 360, 379. Under the former act the board appointed the chief for a fixed time; where however they expressly did not fix the time it was held that the law fixed it at four years and that he could not be removed without cause before the end of the term: *State ex rel. Campbell vs. Board*, 14 Mo. App. 297, affirmed 88 Mo. 144; but that case was expressly overruled by the later case of *State ex rel. Rife vs. Hawes*, 177 Mo. 360. The chief may be suspended pending trial: *State ex rel. Campbell vs. Board*, 16 Mo. App. 48. He is entitled to the benefit of counsel at the trial; so held in *State ex rel. Kiely vs. Board of Police Commissioners*, (Supreme Court in banc Feb. 26, 1906; no opinion was filed in the cause, to the time of this writing). The police are both state and city officers: See *infra* Sec. 451 and note to Art. IV, Sec. 43 of Charter.

moneys as any policeman or police officer may be so permitted to receive, shall be paid over to the boards, and together with all the proceeds of all fines, forfeitures and unreclaimed property which may come to the possession of said boards, or to be recovered by them under the provisions of this act, or any other law, or ordinance, shall be disposed of in accordance with rules adopted by the said boards, subject to the provisions of the laws of this state controlling and directing the dispensation of such funds. (Ib., p. 56, sec. 10. R. S. 1899, sec. 6217.)

Sec. 437. The boards to have office furniture, etc.—The said boards shall be and they are hereby authorized to provide themselves with such office and office furniture, and such clerks and subordinates as they shall need; and to have and use a common seal. They shall divide the said cities into twelve police districts, and provide in each of them, if necessary, a station house or houses, with all things and equipments required for the same, and all such other accommodations as may be required for the use of the police. The said boards, for all the purposes of this act, shall have the use of the fire alarm telegraph of said cities for police purposes, and all station houses, watch-boxes, firearms, equipments, accoutrements and other accommodations and things provided by said cities, for the use and service of the police, as fully and to the same extent as the same are now used by or for any present police, or as fully and to the same extent as the same may be used by any police force in any of the cities to which this act may hereafter apply; and the mayor and common council or municipal assembly, and all persons and municipal officers in charge thereof, are hereby ordered and required to allow such use accordingly. In case the said mayor and common council or municipal assembly of any [of] said cities, or its officers or agents, refuse or neglect to allow such use, as and whenever the same shall be required by the boards created by this act, or refuse to set aside and appropriate the revenue necessary to carry out the provisions of this act, or place obstructions or hindrances in the way of the proper discharge of the powers of said boards, the said boards may apply to the circuit courts of the judicial circuit in which said cities may be located, in the name of the state, for a mandamus to compel a compliance with the provisions of this section, and the application thereof shall be heard and decided by the court. One week's notice of the application shall be given, and the respondent or respondents shall have the right to answer within the week; and if testimony be needed on either side, the same shall be taken within ten days after the same is filed, or the said week shall be expired. From the decision of the circuit court in the premises either party may appeal within ten days; and it shall be the duty of the clerk of said courts to send up the record immediately, and the appeal shall be heard immediately by the supreme court, if then in session, and if not in session, at the next term. In both courts the case shall be taken up and tried in preference to all others. (Ib., p. 56, sec. 11. R. S. 1899, sec. 6218—*g*.)

Sec. 438. Sheriff to aid in maintaining public peace.—It shall be the duty of the sheriff of the county or city in which any of the cities to which this act may apply shall be located, whenever called on for that purpose by said boards, to act under their control for the preservation of the public peace and quiet; and, if ordered by them to do so, he shall summon the posse comitatus for that purpose, and hold and employ such posse subject to their direction; whenever the exigency or circumstances may, in their judgment, warrant it, the said boards shall have the power to assume the control and command of all conservators of the peace of the county or city in which any of the cities to which this act may apply, whether sheriff, constable, policemen or others, and they shall act under the orders of the said boards and not otherwise. (Ib., p. 57, sec. 12. R. S. 1899, sec. 6219—*h*).

Sec. 439. Boards to make estimate, etc.—It shall be the duty of said boards, within thirty days after this act shall take effect, and annually thenceforward on the 31st day of March of each year to prepare, in writing, an estimate of the sum of money which will be necessary for each current fiscal year, to enable them to discharge the duties hereby imposed upon them, and to meet the expenses of the police department, and they shall forthwith certify the same to the board of common council or municipal assembly, as the case may be, of said cities, who are hereby required to set apart and appropriate the amount so certified, payable out of the revenue of said cities, after having first deducted the amount necessary to pay the interest upon the indebtedness of said cities, the amount necessary for the expenses of the city hospital and health department, the amount necessary for lighting the city, and any sum required by law to be placed to the credit of the sinking fund of said cities. The said boards of police commissioners shall pass

(*g*) See State ex rel. vs. Mason, 153 Mo. 23.

(*h*) A member of the posse comitatus called during the street car strike of 1900 was a conservator of the peace and not entitled to a reward for services within the scope of his duties but after their cessation occupied the same position as a private person and could recover under promise of reward from the street car companies: Cornwell vs. Transit Co., 100 Mo. App. 258, 262.

upon all claims presented against them for the expenses incurred in the discharge of their duties as herein provided and shall certify, by their president and secretary, all such claims as are entitled to payment and all salary rolls for salaries as provided in this act, and such claims and salary rolls, when so certified, shall be duly audited and paid by the proper disbursing officer or officers of said cities within five days after being audited, out of any moneys in the city treasury not appropriated to the specific purposes above enumerated: Provided, however, that the amount of said claims and salary rolls so certified shall not exceed, in any one year, the amount so, as aforesaid, estimated for that year to the common council or municipal assembly of said cities aforesaid. The common council or municipal assembly of said cities shall have no power or authority to levy or collect any taxes or appropriate any money for the payment of any police force, other than that organized and employed under this act. No officer or servant of the mayor or the common council or municipal assembly of said cities shall disburse any money for the payment of any police force other than that organized and employed under this act, and the power of said mayor and common council or municipal assembly to appropriate and disburse money for the payment of the police force organized and employed under this act shall be exercised as in this section directed and not otherwise. (Ib., p. 57, sec. 13. R. S. 1899, sec. 6220—i.)

Sec. 440. Interference with the enforcement of this act, how punished.—Any officer or servant of the mayor or common council or municipal assembly of the said cities, or other persons whatsoever, who shall forcibly resist or obstruct the execution or enforcement of any of the provisions of this act or relating to the same, or who shall disburse any money in violation thereof, or who shall hinder or obstruct the organization or maintenance of said board of police, or the police force hereinbefore provided to be organized and maintained, or who shall maintain or control any police force other than the one herein provided for, or who shall delay or hinder the due enforcement of this act by failing or neglecting to perform the duties by this act imposed upon him, shall be liable to a penalty of one thousand dollars (\$1,000.00) for each and every offense, recoverable by the boards by action at law in the name of the state, and shall forever thereafter be disqualified from holding or exercising any office or employment whatsoever under the mayor or common council or municipal assembly of said cities, or under this act: Provided, however, that nothing in this section shall be construed to interfere with the punishment, under any existing or any future laws of this state of any criminal offense which shall be committed by the said parties in or about the resistance, obstruction, hindrance, conspiracy, combination or disbursement aforesaid. (Ib., p. 58, sec. 14. R. S. 1899, sec. 6221.)

Sec. 441. Parties Arrested—Disposal—Sureties, etc.—The commissioners of police shall cause all person arrested by the police to be brought before some justice of the peace or other proper magistrate within said cities, to be dealt with according to law. Proper police officers in charge of police station houses may, if the offense charged against any person is a bailable one, at the request of such person, take from him a recognizance in such sum as may seem to be sufficient and proper with sufficient sureties for his appearance at the proper time before some justice of the peace or other proper magistrate; but no attorney-at-law, police officer, constable or his deputy, and no official or employe holding office under the municipality of the said cities, or the state of Missouri, and no clerk in the employ of such officer, officials or employes shall be accepted as surety upon such bond or bonds; the proper officers in charge of said station houses may administer oaths to parties qualifying as such surety or sureties; and may refuse to receive as such surety or sureties any and all parties with unsavory reputations or who as professional bondsmen, tend to defeat the ends of justice, and no one shall be accepted as bondsman who shall have standing against him an unsatisfied judgment rendered on a forfeited bond; such proper police officers in charge of police stations may, prior to the appearance of any person arrested before some justice of the peace or other proper magistrate, refuse to admit to the presence of arrested persons confined in stations, all persons who have the reputation of being what is known as grafters or shysters, or those attorneys who are guilty of the practice of soliciting business. (Ib., p. 58, sec. 15. R. S. 1899, sec. 6222.)

Sec. 442. Bertillon system department.—The boards of police commissioners shall establish the Bertillon system of identification of criminals and others by means of anthropometric indications, which shall be placed in charge of the superintendent of the Bertillon system provided for in section 7 [6214], and they are

(i) See Scheme Sec. 14. The police of the City have no right to act in the County of St. Louis (annulling so much of Sec. 14 of the Scheme as purports that they have: *State ex rel. vs. Stobie*, 194 Mo. 14 (Marshall and Valliant dissenting)). See also Charter Art. III, Sec. 26, clause 2; also *Art. XVI*, Sec. 16, which latter, however, is inconsistent with the above act of 1899 which requires the city to pay the police expenses according to the estimate of the Board, which estimate in itself operates as an appropriation, and the assembly is powerless to disregard same: *State ex rel. vs. Mason*, 153 Mo. 23.

further required to employ such additional assistance as may be necessary to properly conduct and manage this department. (Ib., p. 59, sec. 16. R. S. 1899, sec. 6223.)

Sec. 443. Boards to keep journal of their proceedings.—The boards shall cause a full journal of their proceedings to be kept, and shall also cause all their receipts and disbursements of money to be faithfully entered in books to be procured and kept for that purpose, and said journal, and all said books, and all other documents in possession of said boards, shall always be open to the inspection of the general assembly of the state of Missouri or any committee appointed by it for that purpose. It shall be the duty of the boards to report to the common council or municipal assembly of the said cities at each annual session thereof, the number and expenses of the police force employed by them under this act, and all such other matters as may be of public interest, in connection with the duties assigned them by this act. (Ib., p. 59, sec. 17. R. S. 1899, sec. 6224.)

Sec. 444. Mounted police.—The boards, whenever and for so long a time as may be necessary, is [are] authorized, out of the force hereinafter provided for, to appoint, mount and equip as many policemen as they may deem necessary for duty in the parks, outskirts and such other portions of the said cities as the board may deem necessary. (Ib., p. 59, sec. 18. R. S. 1899, sec. 6225—j.)

Sec. 445. Proceedings to suppress gambling.—Whenever the president or acting president of said board shall have the knowledge or shall receive satisfactory information that there is any prohibited gaming table or other gaming device or apparatus used in gambling, or any books, instruments, boards or devices used in recording or registering bets or wagers or selling pools, kept or used in any of said cities, he shall have the power to issue a warrant, directed to some officer of the police force under said board, to seize and bring before him such gaming table or other gambling device or apparatus used in gambling, or such books, instruments, boards or devices used in recording or registering bets or wagers or selling pools, and to arrest such person or persons as may be in charge of, conducting, owning or operating such table, device, apparatus, books, instruments, boards or devices so used; and upon the service of such warrant or warrants and seizure of any such table, device, apparatus, books, instruments, boards or devices, under such warrant or warrants, said acting president shall set a day, not less than five days nor more than ten days after the date of such service and seizure, for determining whether such property so seized is the kind of property mentioned in this act, and was so used or held for gambling purposes, or for recording or registering bets or wagers or selling pools. A written notice of the date or place of such hearing shall be given the owner or owners of such property by posting a copy of such notice in a conspicuous place on the premises in which said property is seized, at least five days before the date of said hearing, and such owner or owners may appear at such hearing and defend against the charges as to the nature and use of the property so seized, and said acting president shall determine, from the evidence produced at such hearing, whether the property is the kind of property, and was used or held for the purpose hereinbefore mentioned; and said acting president is hereby declared to be, and is constituted a magistrate and clothed with jurisdiction and power to issue such warrants in the same manner, and with like effect as warrants are now issued by justices of the peace, and to determine judicially the character, nature and use of the property so seized: Provided, that persons arrested under such warrants shall be sent before the judge of the police court or other proper magistrate of the said cities, together with the charges filed against them, and a list of witnesses to be summoned on part of the prosecution, and said judge of the police court shall thereupon have jurisdiction to try such persons as provided by law. (Ib., p. 59, sec. 19. R. S. 1899, sec. 6226.)

Sec. 446. Power of officers to break doors.—The officer charged with the execution of such warrants shall have the power to break open doors for the purpose of executing the same and for that purpose may have the assistance of the whole police force. (Ib., p. 60, sec. 20. R. S. 1899, sec. 6227.)

Sec. 447. Gambling devices, etc., to be destroyed.—It shall be the duty of such president or acting president before whom any such prohibited gambling table or other gaming device or apparatus used in gambling, or books, instruments, boards, or devices used in recording or registering bets, or selling pools, shall be brought, in case he decides after hearing, that such property so seized was used or held for gambling purposes, or for recording or registering bets or wagers, or selling pools, to cause the same to be publicly destroyed by burning or otherwise. (Ib., p. 60, sec. 21. R. S. 1899, sec. 6228.)

Sec. 448. Proceedings where property has been stolen.—Upon complaint being made, on oath, to the president or acting president of the board, that any personal property has been stolen or embezzled and that the complainant suspects that such property is concealed in any particular house or place in any of said cities, if such president or acting president shall be satisfied that there is reasonable ground for sus-

(j) Section referred to in State ex rel. vs. Stobie, 92 Southw. 191, 202, S. C. 194 Mo. 14.

picion, he may issue a warrant to search for such property, and said president or acting president is hereby declared to be and is constituted a magistrate and clothed with judicial functions and powers to issue such warrants in the same manner and with like effect as warrants are now issued by justices of the peace. (Ib., p. 60, sec. 22. R. S. 1899, sec. 6229.)

Sec. 449. Warrants, how directed.—Such warrants shall be directed to some officer of the police force and shall command him to search the place where such property is suspected to be concealed, which place shall be designated and the property particularly described in such warrant, and to bring such stolen property before the police justice or some justice of the peace of said cities, and upon the return of such warrants to such justice he shall proceed thereon in like manner as if such warrants had been by him issued. (Ib., p. 60, sec. 23. R. S. 1899, sec. 6230.)

Sec. 450. No fee allowed, when.—No fee shall be allowed for the issue or execution of the warrants aforesaid. (Ib., p. 60, sec. 24. R. S. 1899, sec. 6231.)

Sec. 451. Police made officers of the city and state.—The members of the police force of the cities covered by this act organized and appointed by the police commissioners of said cities, are hereby declared to be officers of the said cities, under the charter and ordinances thereof, and also to be officers of the state of Missouri, and shall be deemed and taken in all courts having jurisdiction of offenses against the laws of this state or the ordinances of said cities. (Ib., p. 60, sec. 25. R. S. 1899, sec. 6232—*k*.)

Sec. 452. Boards to license private watchmen.—The police commissioners of the said cities shall have power to regulate and license all private watchmen, private detectives and private policemen, serving or acting as such in the said cities, and no person shall act as such private watchman, private detective or private policeman in said cities without first having obtained the written license of the president or acting president of said police commissioners of the said cities, under pain of being guilty of a misdemeanor. (Ib., p. 61, sec. 26. R. S. 1899, sec. 6233.)

ARTICLE II.

PENSIONS OF POLICEMEN.

Whereas, an act was passed by the general assembly of the state of Missouri, approved April 22, 1891, entitled "An act amending section 10, article 29, of the police law as it applies to the city of St. Louis," which act also amended section eleven (11) of said police law; and

Whereas, by reason of the omission of any reference to said section eleven (11) in the title of said act, doubts have arisen as to the validity of that portion of said act amending said section eleven (11); now, therefore,

Section 1. Section eleven (11) of article twenty-nine (29) of laws specially applicable to the city of St. Louis, of the Revised Statutes of 1889, entitled "Police," is hereby amended, so as to read as follows:

Section 453. Vacancies—how filled—rules and regulations.—Whenever any vacancy shall take place in any grade of officers except the chief, it shall be filled from the next lowest grade, if competent men can be found therein. The board of police commissioners are hereby authorized to make all such rules and regulations, not inconsistent with this act, as they may judge necessary for the appointment, employment, uniforming, disciplining, trial and government of the police, and for the relief and compensation of members of the police force injured in person or property in the discharge of their duty, and the families of the officers or men killed while in such discharge of duty. And whenever any person is employed by said board as a policeman, such employment shall be upon the following conditions:

Sec. 454. Compensation, in case of disability of policemen.—*First*—That if the person so employed shall become physically disabled while in and in consequence of the performance of his duty as such policeman, said board shall, upon his written request, or without such request if the board deem it for the good of the police force, retire such person from active service, and order and direct that during the continuance of such disability he shall be paid from the funds provided by the municipal assembly for the payment of the police force of said city, a monthly salary not exceeding one-half the amount of the salary attached to the rank which he may have held on said police force for one year next preceding such retirement: Provided, that no person shall be retired and paid as aforesaid, unless there shall be filed with said board certificates of disability, which certificates shall be subscribed and sworn to by said person, and by the police surgeon, if there be one, and by two physicians in good standing in said city; and such board may, if it thinks proper, require other evidence of such disability before ordering such retirement and payment as aforesaid.

(*k*) Police are both state and city officers: See cases under note to Charter Art. IV, Sec. 43.

Sec. 455. Compensation to family in case of death.—*Second*—That if the person so employed as policeman shall lose his life while in and by reason of the performance of his duty as such policeman, or shall thereby receive injuries from which he shall thereafter die, leaving a widow, or child or children under the age of 16 years, then upon satisfactory proof of such facts made to it, such board shall order and direct that a monthly payment, equal to one-half the amount of the salary attached to the rank which said policeman held on said police force at the time of his death, shall be paid to the widow during her life, from the funds provided by the municipal assembly for the payment of the police force of said city, and if there be no widow, then to such child or children until they shall become 16 years of age; but if such widow shall marry, then such payment shall cease.

Sec. 456. May retire after 20 years' service—compensation.—*Third*—That any person so employed, who shall serve for the period of 20 years or more, may in the discretion of said board be retired from active service, and be thereafter paid during his natural life a yearly salary equal to one-half the amount of the salary attached to the rank which he may have held on such police force for one year next preceding his retirement: Provided, that any person who is retired from active service under this section on account of disability may be summoned to appear before the board at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of such board with reference thereto; and all members of the police force retired under the provisions of this section, except those retired after 20 years' service, shall report to the chief of police of the city on the — of each and every month, and in cases of emergency may be assigned to and shall perform such duty as said chief of police may direct, and such person shall have no claim against the city for payment for such duty so performed—7.

No member of the police force who shall be retired on half pay under this section after twenty years' service, or who shall be retired on half pay on account of physical disability as herein provided, shall be entitled to any relief from any police relief association organized under section 2885 of the Revised Statutes of 1889, nor shall the families of deceased policemen who may be provided for by the board of police commissioners under this section be entitled to receive any aid from any relief association organized under section 2885 aforesaid. The said board shall also have power to require of any officer or policeman bond with sureties, when they may consider it demanded by the public interest. All lawful rules and regulations of the board shall be obeyed by the police force on pain of dismissal, or such lighter punishment, either by suspension, fine, reduction or forfeiture of pay, or otherwise, as the board may adjudge. (Laws 1895, sec. 1, pp. 234, 235.)

Sec. 457. Acts repealed.—All acts and parts of acts in conflict with this act are hereby repealed. This act to take effect and be in force from and after its passage.

ARTICLE III.

HOLIDAYS TO OFFICERS OF POLICE.

Section 458. Holidays to officers in active service.—That the board of police commissioners in cities of one hundred thousand inhabitants and over shall grant each and every metropolitan police officer, in active service, twenty-four days a year.

No deduction shall be made from the salary of any police officer on account of the aforesaid holidays.

Upon the taking effect of this act, the board of police commissioners of all cities of one hundred thousand inhabitants and over shall make an order instructing the chief of police to set apart the days in each month each police officer is entitled to under this act. (Acts 1893, p. 59, secs. 1, 2 and 3; R. S. 1899, sec. 6205.)

ARTICLE IV.

SPECIAL POLICE OFFICER OF HUMANE SOCIETY.

Section 459. Appointment and compensation.—In cities wherein not more than three incorporated societies for the prevention of cruelty to children and animals known as humane societies exist, and the same city having the metropolitan police system, it shall be the duty of the board of police of said city to appoint one special officer, to each of said societies, to be recommended by the humane society which said officer is to represent, whose term of office and wages shall be the same as that of a regular policeman. Said special officers shall be subject to the

(7) This section is void because in violation of that part of the constitution prohibiting the General Assembly from authorizing any city to grant public money in aid of any individual: State ex rel. vs. Ziegenhein, 144 Mo. 283.

authority of the board of police, but ununiformed in costume, but shall wear over his left breast the badge adopted by the humane society which he represents. (Laws 1901, amending R. S. 1899, sec. 6168—*m*.)

CHAPTER TWENTY-FIVE.

PHARMACY, PRACTICE OF.

Section 460. Persons compounding medicines to procure certificate.—Six months from and after the passage of this act, no person whatsoever shall, in the city of St. Louis, engage in the business of compounding or dispensing medicines or prescriptions of physicians, or in the retail of poisons or medicines, without first having obtained a written certificate that he is duly competent and qualified to do so from the board of pharmacy established by this act, and without having been duly registered, as hereinafter provided. (Laws 1874, p. 377, sec. 1. R. S. 1899, p. 2560.)

Sec. 461. A board of pharmacy created—its duties.—The members of the St. Louis college of pharmacy residing in St. Louis shall, two months after the passage of this act, and every third year thereafter, during the month of May, elect five of the most competent pharmacists of St. Louis to serve as a board of pharmacy. The members of this board shall, within ten days after their election as aforesaid, individually take and subscribe before the clerk of the county court [register] of St. Louis, an oath faithfully and impartially to discharge the duties prescribed for them by this act. They shall hold their respective offices for three years, and until their successors are duly elected and qualified; and in case of any vacancy, the trustees of the college of pharmacy shall fill the same from two or more nominees elected at a special meeting of the college of pharmacy. The board shall organize for the transaction of business by electing a president and secretary for the whole term. The board shall meet at least once every three months; have power to make by-laws for the proper fulfillment of their duties, and three members shall constitute a quorum. The duties of said board shall be to transact all business pertaining to the legal regulation of the practice of pharmacy in the city of St. Louis, and to examine and register pharmacists. Any pharmacist applying for examination shall pay to the secretary a fee of five dollars, and, should he pass such examination satisfactorily, he shall be furnished with a certificate of his competency and qualifications, signed by the president and the examiners. (Laws 1874, p. 377, sec. 2. R. S. 1899, p. 2560.)

Sec. 462. Duties of the secretary of the board.—It shall be the duty of the secretary to keep a book of registration open at some convenient place, of which due notice shall be given through the public press, in which book shall be registered the name and address of every person coming under the provisions of this act, and it shall be the duty of all such persons to appear before the secretary for registration, within thirty days after this act has gone into operation, and be registered. The fee for the registration of pharmacists shall be one dollar. The secretary shall give receipts for all moneys received by him, and pay over the same to the treasurer of the college of pharmacy, taking his receipt therefor, which money shall be used for the purpose of defraying the expenses of the board of pharmacy, and any surplus shall be for the benefit of the college of pharmacy. (Laws 1874, p. 377, sec. 3. R. S. 1899, p. 2561.)

Sec. 463. This act not to apply to certain persons.—The foregoing provisions of this act shall not apply to or affect any person who shall have a diploma or certificate from any incorporate college or school of pharmacy, whose diploma or certificate is based upon a regular term of service in the drug and apothecary business, or who shall have been engaged as proprietor in the drug and apothecary business in the city of St. Louis one year prior to the passage of this act, except only so far as relates to the registrations as provided for in sections two and three of this act. (Laws 1874, p. 377, sec. 4. R. S. 1899, p. 2561.)

Sec. 464. Who may compound medicines.—No person shall be allowed by the proprietor or manager of any store to compound or dispense the prescriptions of physicians (except as in aid under the immediate supervision of the proprietor or his qualified assistant) unless he is a graduate in pharmacy, or has had at least four years' experience in stores where prescriptions of medical practitioners are compounded, and has passed an examination before the board of pharmacy to be created by this act, or such foreign pharmacists as shall present satisfactory credentials or certificates of their competency and qualifications to the said board of pharmacy. Any person violating the provisions of this section of this act shall be deemed guilty of a misdemeanor, and on conviction thereof, be liable to a penalty not exceeding one hundred dollars. (Laws 1874, p. 378, sec. 5. R. S. 1899, p. 2561.)

Sec. 465. Responsibility of pharmacists.—Every registered pharmacist, from and after the passage of this act, shall be held responsible for the quality of all the

(*m*) Half of what fines go to Humane Society: See Rev. C. 1608; *Drinking Fountains* established by Humane Society. R. C. 275.

drugs, chemicals and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer and those known as "proprietary medicines;" and should he knowingly, intentionally and fraudulently adulterate or cause to be adulterated such drugs, chemicals or medicinal preparations, and shall willfully, knowingly or fraudulently sell or cause the same to be sold for medicinal purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be liable to a penalty not exceeding one hundred dollars, and, in addition thereto, his name shall be stricken from the register. (Laws 1879, p. 38, sec. 1. R. S. 1899, p. 2561.)

Sec. 466. **Punishment for violations of this article.**—Any person violating the provisions of this law shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine as herein provided, to be recovered for the use and in the name of the city of St. Louis, before any court or officer having competent jurisdiction: *Provided*, That an appeal shall be allowed the parties so proceeded against as in other cases of appeal from justices of the peace. (Laws 1879, p. 38, sec. 2. R. S. 1899, p. 2562.)

Sec. 467. **Punishment for fraudulent attempt to procure registration.**—Any person who shall attempt to procure registration for himself or any other person under this act, by making or causing to be made any false representation, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty not exceeding five hundred dollars. Any person, not registered, who shall keep open a shop for the retailing and dispensing of medicines and poisons, or who shall fraudulently represent himself to be registered, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be liable to a penalty of one hundred dollars for each and every week during which he shall continue to carry on such business without a certificate of registration. (Laws 1874, p. 378, sec. 7. R. S. 1899, p. 2562.)

CHAPTER TWENTY-SIX.

REVENUE, ASSESSMENT AND COLLECTION OF.

Art. I. Assessment of property.

Art. II. The collector.

Art. III. Settlements of and deposits by collector.

Art. IV. Delinquent and back taxes.

Art. V. Assessment and taxation of railroads.

Art. VI. Taxation of merchants and manufacturers.

[The assessment and collection of the revenue in the city of St. Louis is governed by the state laws which embrace sections 9118 to 9400, inclusive, Revised Statutes of 1899. Those provisions of special application to the City of St. Louis only follow, and in connection therewith should be considered the Charter provisions on revenue and taxation: Chart. Art. V.]

ARTICLE I.

ASSESSMENT OF PROPERTY.

Sec. 468. **Plats and change of assessment, St. Louis city.**—The president of the board of assessors of St. Louis city shall cause to be prepared plats covering all tracts and lots of land in said city, and the county assessor in every county where the county court shall have passed an order requiring an alphabetical arrangement of the "land list," shall cause to be prepared plats covering all tracts and lots of lands in such county, showing upon the respective pieces of property, as marked down on said plats, the names of the persons to whom each tract or lot was assessed for each year; he shall cause the changes for the assessment of the following years to be marked in different inks, stating on the first leaf of each plat-book for what years the different inks were used, and such plats shall not be used to record the changes for a longer period than three assessment years on each set of plats; and in every such county where an alphabetical arrangement of the "land list" shall be adopted by order of the county court, such court shall allow to the assessor a reasonable compensation for preparing such plats and procuring the books therefor. (R. S. 1899, sec. 9169—*n*.)

Sec. 469. **Collector of St. Louis city and his duty.**—The collector of the city of St. Louis shall collect the state taxes in the limits of said city in the same manner and to the same extent, and do and perform all other things and matters appertaining thereto, as fully to all intents and purposes as now required, or which may be required of the county collectors. (R. S. 1899, sec. 9334—*o*.)

(*n*) See Charter Art. V, Secs. 26, 18, 19.

(*o*) See Charter, Art. IV, Sec. 24; Art. V, Secs. 30-35; also *ib*. Sec. 3.

The collector may establish against a decedent's estate the claim for school and city taxes, in the name of the state to his use and at his relation, whether such taxes accrue before or after the death of decedent; and the petition should set out the taxes due each year in separate counts: See cases cited in note to Sec. 491 below.

Sec. 470. **Council of St. Louis city—powers and duties.**—The council [assembly] of St. Louis shall, in all things appertaining to the assessing and collecting the state revenue and licenses in the limits of said city, perform and do all things which heretofore devolved on the county court of St. Louis county, not otherwise provided in the scheme and charter of said city. Whenever the county of St. Louis, or the county court of St. Louis county, is mentioned specially in this chapter, it shall be taken and understood as applying to the city of St. Louis. (R. S. 1899, sec. 9335—*p*.)

ARTICLE II.

THE COLLECTOR.*

Sec. 471. **Collector's bond.**—Every collector of the revenue in the various counties in this state, and the collector of the revenue in the city of St. Louis, before entering upon the duties of his office, shall give bond and security to the state, to the satisfaction of the county courts and in the city of St. Louis to the satisfaction of the mayor of said city, in a sum equal to the amount of all the revenue to be collected by him for any one year, conditioned that he will faithfully and punctually collect and pay over all state, county and other revenue for the four years next ensuing the first day of March thereafter, and that he will in all things faithfully perform all the duties of the office of collector according to law. The official bond required by this section shall be signed by at least five solvent sureties. (R. S. 1899, sec. 9206, amended by Laws 1907, p. 390—*q*.)

Sec. 472. **Bond of ex officio collector.**—In any county where any officer thereof is *ex officio* collector of the revenue of said county, he shall give bond and security as such *ex officio* collector to the state of Missouri, to the satisfaction of the county court of such county, in a sum of at least equal to the amount of all the revenue to be by him collected for any one year, conditioned that he will faithfully and punctually collect and pay over all state and county revenue during his term as such *ex officio* collector, and that he will in all respects faithfully perform all the duties of collector according to the statute laws of the state governing county collectors of the revenue. (R. S. 1899, sec. 9207.)

Sec. 473. **Failure to give bond vacates office.**—If any collector shall neglect or refuse to give bond, as required by the next preceding section, his office shall, immediately upon such neglect or refusal, be vacant. (R. S. 1899, sec. 9208—*r*.)

Sec. 474. **Bond to be in duplicate—where filed.**—Such bond shall be executed in duplicate; one part thereof shall be deposited and recorded in the office of the clerk of the county court, and the other part shall be transmitted by the clerk to the state auditor. (R. S. 1899, sec. 9209.)

Sec. 475. **Shall be a lien against real estate of collector.**—Said bond, when approved and recorded, shall be a lien against the real estate of such collector until he shall have complied with the conditions thereof. (R. S. 1899, sec. 9210—*s*.)

Sec. 476. **Not invalidated for informality of assessment.**—Any bonds given in pursuance of this chapter shall not be considered void, nor shall any surety be released from any liability thereon in consequence of any informality in the assessment, or in making out the assessment lists, nor of any change or alteration in the law made by the general assembly, although the same may be made after the execution of said bond. (R. S. 1899, sec. 9211.)

Sec. 477. **New bond, when required—books not to be delivered until, when.**—The collector's bond, when received by the auditor, shall be carefully examined, and if found to be made in conformity to law, and the sureties satisfactory, he shall file the same in his office, and immediately certify the fact thereof to the clerk of the county court; but if said auditor finds said bond to be not in accordance with law, or if he has reason to doubt the sufficiency of the security, he shall immediately return the bond to the clerk of the county court, who shall notify the collector to correct said bond, or make a new bond, as may be required by the auditor. If a new bond is required, it shall be approved and recorded, and subject to the requirements of this section, the same as the first bond given by the collector. No tax-book or lists shall be placed in the hands of the county collector until the auditor's certificate, under the seal of his office, has been received by the clerk of the county court, showing that the collector's bond has been received and filed in the auditor's office. Any evasion of this section by the clerk of the county

*See Charter Provisions as to bond, powers, duties, etc., Charter, Art. V, Secs. 30 to 35; and ordinances on these subjects, see Rev. Code, Secs. 2289 et seq.

(*p*) See note to Charter, Art. V, Sec. 1. As to transfer of functions to city officers on adoption of Scheme and Charter see note introductory to Charter hereinafter.

(*q*) See 10 Mo. 338; see cases cited *infra* note 497.

(*r*) So by Charter, Art. V, Sec. 30.

(*s*) Creates no lien unless he has a beneficial interest: *Morrison vs. Herrington*, 120 Mo. 665; as to what is an immaterial variance in the conditions of the bond, and from what time the bond becomes a lien on collector's realty, see *Wimpey vs. Evans*, 84 Mo. 144.

court or collector shall subject them each to a penalty of not less than five hundred dollars, and all damages and costs to be recovered before any court of competent jurisdiction in this state; and the auditor is hereby required to bring suit, without delay, for every evasion of the requirements of this section, as soon as the same comes to his knowledge—the amount recovered on such fines to be paid into the state treasury as revenue fund: *Provided*, that nothing in this section shall be construed as relieving the sureties of a collector from liabilities incurred under a bond not approved and filed by the auditor. (R. S. 1899, sec. 9212—*t*.)

Sec. 478. Bonds to be examined by county court, when.—The county court shall, at the end of the first year, carefully examine the bond given as collector, and may again examine the same at any time before the tax-book of the second year of his term shall be delivered to him, and by such examination ascertain if the bond be sufficient, and the sureties thereto still solvent and sufficient, and upon such examination, if found to be necessary, the court shall require an additional bond, as collector, with good security, to be approved by the court, as in the taking of the original bond. (R. S. 1899, sec. 9213.)

Sec. 479. Failure to give additional bond.—If such collector shall fail to give such additional bond and security for ten days after he shall be required to do so by law, his office of collector shall be vacant. (R. S. 1899, sec. 9214.)

Sec. 480. Sureties may be discharged, when.—The sureties on any bond given in pursuance of this chapter, or either of them, may, at any time after the execution of said bond, if they, or either of them, have good reason to believe that the officer in said bond is about to fail to comply with the conditions thereof, file with the clerk of the county court a notice, in writing verified under oath by the person asking to be discharged, setting forth the facts in the case, and asking to be released from any further liability on said bond; whereupon the clerk with whom such notice shall be filed shall notify the said officer to give additional security, equal to the security about to be released by the county court; which notice may be served by the said clerk, or by any person appointed by said court or clerk. If the officer so notified shall not appear and give additional security within ten days from the time he may be so notified, the county court may remove him from office; and in all such cases the person appointed to fill the vacancy occasioned by such removal shall execute bond, qualify and perform the duties required as such officer: *Provided*, that if the sureties on any collector's bond, or either of them, shall be satisfied that such collector is making improper use of the funds, collected by him, or has absconded or is about to abscond from this state, whereby said sureties may become liable to pay any sum or sums of money, it shall be lawful for said surety to sue out a writ of attachment against the goods and chattels of such collector in like manner as he would be authorized to do if said collector was personally indebted to such surety; and the money collected on any such attachment shall be paid into the state, county, town or city treasury, by the officer collecting the same, in like manner as if paid over by the collector. (R. S. 1899, sec. 9215.)

Sec. 481. In case of vacancy, duty of successor.—In case of a vacancy, as mentioned in the foregoing section, the person appointed to fill such vacancy shall execute a bond and collect and pay over the taxes in the same manner as the collector should have done, and his acts shall be as binding and effectual as the collector's would have been had he completed the collection. The collector so appointed may obtain judgment, and sell delinquent lands and lots in like manner as the collector would have been authorized to do had he completed such collections. (R. S. 1899, sec. 9216.)

Sec. 482. Collector may appoint deputies.—Collectors may appoint deputies, by an instrument in writing, duly signed, and may also revoke any such appointment at their pleasure, and may require bonds or other securities from such deputies to secure themselves; and each such deputy shall have like authority, in every respect, to collect the taxes levied or assessed within the portion of the county, town, district or city assigned to him, which, by this chapter, is vested in the collector himself; but each collector shall, in every respect, be responsible to the state, county, towns, cities, districts and individuals, companies, corporations, as the case may be, for all moneys collected, and for every act done by any of his deputies whilst acting as such, and for any omission of duty of such deputy. Any bond or security taken from a deputy by a collector, pursuant to this chapter, shall be available to such collector, his representatives and sureties, to indemnify them for any loss or damage accruing from any act of such deputy. (R. S. 1899, sec. 9217—*u*.)

(*t*) Additional Bond: State ex rel. vs. Lafayette Co., 41 Mo. 545.

(*u*) The state is the real party in interest in an action for delinquent taxes and if the collector retires from office his successor need not be made a party: See case cited infra in note to Sec. 491. The bill cannot in an action be excluded because signed by a deputy, and it may be shown that he was in fact such; nor need a person subsequently acquiring an interest in the property be made a party: State ex rel. vs. Miller, 16 Mo. App. 539.

As to charter power to appoint deputies see Art. V, Sec. 33.

ARTICLE III.

SETTLEMENTS OF, AND DEPOSITS BY COLLECTOR.

Sec. 483. Collector to return delinquent list under oath.—At the term of the county court to be held on the first Monday in March, the collector shall return the delinquent lists and back tax-books, and in the city of St. Louis the uncollected tax-bills and back-tax books, under oath or affirmation, to such court, and settle his accounts of all moneys received by him on account of taxes and other sources of revenue, and the amount of such delinquent lists, or so much thereof as the court shall find properly returned delinquent, shall be allowed and credited to him on his settlement. Before allowing the collector such credit for any delinquent lists, the county court shall make special inquiry and be fully satisfied that he has used due diligence to collect the same, and that he could not find any personal property of the tax-payer out of which to make the taxes. If the court is satisfied that there are any names on the lists of persons who have personal property out of which the taxes could have been made, it shall, in passing upon such lists, strike such names therefrom. (R. S. 1899, sec. 9247—*v.*)

Sec. 484. Collector St. Louis city to deposit, where.—The collector of the city of St. Louis shall, on Monday in each week, deposit in such bank as may be designated to him by the treasurer of the state, to the credit of such treasurer, all moneys received by him for the state, first deducting the amount of his commission, and take from the cashier a certificate of every such deposit, which shall be received by the treasurer of the state in payment of the revenue. Such collector, when he shall make such deposit, shall transmit to the state auditor an affidavit, setting forth the amount of revenue which he has received since the last deposit, and the amount retained by him for his commission. Nothing contained in this section shall be so construed as to affect in anywise the rate or amount of commission which such collector would be entitled to on his final settlement. (R. S. 1899, sec. 9258—*w.*)

Sec. 485. Penalty on collector for failure.—For every failure of the collector to deposit the revenue, as required by this chapter, he shall forfeit to the state the sum of five hundred dollars, to be recovered of him or his sureties by suit on his official bond, and the auditor shall direct the prosecution of such suit immediately on the occurrence of such failure. (R. S. 1899, sec. 9259.)

Sec. 486. Collector's commissions—county clerk to certify to state auditor.—The collector shall receive as full compensation for his services in collecting the revenue, except back taxes, the following commissions and no more: * * *

XII. In all counties or cities wherein the total amount of all such taxes and licenses levied for any one year exceeds one million dollars, the collector of revenue shall receive, collect and retain, as full compensation for his services, for collecting all revenue and other dues which he is authorized to collect, belonging to the state, school, county and city, the following commissions, viz.: On current and tax revenues as follows: On all sums collected up to and including eighty per cent of the total amount of such tax-bills placed in his hands, one-half of one per cent commission; on all sums collected over eighty per cent and up to and including ninety-five per cent, one per cent commission; on all sums collected over ninety-five per cent, two per cent commission. On licenses and all other dues, except delinquent and back taxes, collected in any one year, as follows: When the amount collected for the city aggregates eight hundred thousand dollars, or less, two and one-half per cent commission; on all licenses and other dues collected for the city in excess of eight hundred thousand dollars, four per cent commission; on all such licenses collected for the state, three per cent commission. All such commissions hereinbefore enumerated shall be deducted and retained by such collector out of the amounts collected for state, school, county and city respectively, and, upon settlement with such collector, shall be credited to his account and charged to the respective revenue accounts. On all back taxes and all other delinquent taxes, he shall be allowed a commission of two per cent, which shall be added to the face of the tax-bill and collected from the party paying such tax as a penalty, in the same manner as other penalties are collected and enforced. The said collector shall pay all salaries and other expenses of his office, and all other costs of collecting the respective revenues: *Provided*, that the municipal authorities of such cities may limit the maximum number of and maximum salaries to be paid to all employes of the collector, and may otherwise reasonably limit the expenditures of his office and the cost of collecting the revenue. The collector shall make settlement annually on the first Monday of March, and at the expiration of his term of office, with the proper officer of the city, for all commissions retained; and all commissions hereinbefore allowed shall be computed for the year or part of the year next preceding the dates of such settlement. Said collector shall present for allowance proper vouchers for all disbursements

(v) When auditor cannot issue distress warrant against collector and sureties: *Judson vs. Smith*, 104 Mo. 61.

(w) See Charter, Art. V, Sec. 31, 7.

made by him on account of salaries and expenses of his office, and other costs of collecting the revenue, which shall be allowed to him as against the commissions retained by him; and out of the residue of such commissions in his hands after deducting the amount of such vouchers allowed, he shall be allowed and authorized to retain, as far as the said residue of such commissions in his hands will permit, a compensation at the rate of ten thousand dollars per annum. Should such residue of commissions be less than sufficient to cover the above compensation, then the entire residue shall be allowed to him, and shall be in full payment for his services. If, however, such residue is more than sufficient to cover such compensation, then the surplus shall be paid over to the state, school, county and city in proportion as the amount collected from each bears to the total amount of collections: *Provided*, that this section shall not be construed as repealing the law requiring the collector to deposit, daily, in the city treasury, all moneys collected for the city, or the law requiring him to deposit, weekly, with the state treasurer, all revenue collected for the state. Collectors of revenue, under this subdivision, shall keep at all times in their office a notary public, who shall administer oaths and take notarial acknowledgments in connection with such office, without charge. All fees, commissions or other compensations heretofore charged, received or allowed, by or to any such collector, as compensation for his services, whether under or by virtue of state law or not, are hereby abolished; and such collector and all his deputies and employes are hereby forbidden, under penalty of forfeiture of office, to collect, charge or receive, directly or indirectly, any fees or commissions in the nature of compensation or other compensation other than those allowed and authorized by this section.

XIII. For the purpose of enabling the state auditor to determine the compensation of the collector to be paid by this state, it is hereby made the duty of the clerk of the county court, immediately after such annual settlement made by the collector, to make out and forward a statement to the state auditor, under the seal of the court, showing the aggregate amount of all such taxes and licenses levied for the year for which such settlement was made, including therein local, special and school and all other taxes: *Provided*, that no collector shall be allowed to retain over nine thousand dollars of commissions and fees in any one year except as provided in subdivision twelfth herein; and all fees and commissions coming into the hands of any collector, from any source whatever, in excess of nine thousand dollars, except as provided in subdivision twelfth, shall be paid into the city, county and state treasuries in proportion to the amount received on taxes collected for each; and it shall be the duty of each collector, once in each year, to file in the county court in each county and in the office of the comptroller of each city not in a county, a statement, under oath, of the amount of fees and commissions received by him and from what source, and shall immediately pay over the excess according to the order of the county court or comptroller: *Provided, however*, that this act shall not apply to any county adopting township organization. (R. S. 1899, sec. 9260—*x*.)

Sec. 487. **When collector's term expires—vacancies, how filled.**—The terms for which collectors are elected shall expire on the first Monday in March of the year in which they are required to make their last final settlement for the tax-book which was to be collected by them. And when any collector resign, or be, from any cause, removed from office, and all collectors appointed by the county courts, or mayor of any city not within a county, to fill vacancies at the expiration of the term for which they were appointed (or as soon thereafter as his successor shall have qualified), they shall pay over all moneys which may be in their hands, due the state, or their successors in office, and take duplicate receipts therefor, one of which receipts they shall file with the clerk of the county court of their respective counties, and in St. Louis city with the city auditor, and retain the other for their own benefit. It shall be the duty of the county clerks and city auditor, as soon as they receive the receipts above mentioned, to certify the same to the state auditor, stating the amount of such receipts; and it shall be the duty of the auditor, upon the receipt of the same, to place the amount thus certified to the credit of the collector whose term of service has expired, and charge the same to his successor in office (R. S. 1899, sec. 9267.)

(*x*) The collector in St. Louis is entitled to three per cent commission on revenue collected by him for the school board on the amount of merchants' and manufacturers' licenses: *Board vs. Ziegenhein*, 156 Mo. 313. A collector who begins and conducts to judgment, a back tax suit is entitled to the fees, although he is not in office when the judgment is rendered and the taxes collected: *Watson vs. Schnecko*, 13 Mo. App. 208. Under the ordinances of St. Louis it was held that where there were two successive incumbents in the office of collector during one fiscal year, in determining the rate at which the commissions of the latter incumbent were to be computed, the collections made by his predecessor should be taken into account: *Lemoine vs. St. Louis*, 72 Mo. 404. The statute allowing reasonable attorney's fees to be taxed as costs in tax suits is valid: *State ex rel. vs. Railway*, 176 Mo. 443. See *Butler vs. Sullivan*, 108 Mo. 630.

ARTICLE IV.

DELINQUENT AND BACK TAXES.

Sec. 488. Tax bills for real estate and railroad taxes prior to 1887 stricken from the lists.—The comptroller or other proper officer in each city of this state having three hundred thousand inhabitants or more, shall, at the first annual settlement made by the collector of such city after the taking effect of this act, strike from the delinquent lists all real estate and railroad tax bills due prior to the year 1887, and shall cancel the tax bills issued therefor, and the collectors of said cities shall not be charged with the same from and after their cancellation. (Laws 1903, p. 253, sec. 1.)

Sec. 489. Certain bills to be cancelled by commission.—At the first annual settlement made by a collector of the revenue after this act shall take effect, in each city in this state having three hundred thousand inhabitants or more, all delinquent real estate tax lists and back tax bills for taxes on real estate shall be carefully examined by a commission to be composed of the comptroller, collector and president of the board of assessors, or other proper officers of such city, and if there appear thereon any back tax bills which, in the opinion of a majority of said commission, are too small to justify the expense of suit, or which are against exempt property, or which are against property which is not worth the taxes, interest and costs, the same shall, upon order of such commission or a majority thereof, be stricken from such delinquent real estate or back tax books and the tax bills therefor cancelled by the comptroller of such city. (Ib., sec. 2.)

Sec. 490. Repeal.—All acts or parts of acts not in conformity with the provisions of this act are hereby repealed. (Ib., sec. 3.)

Sec. 491. List to be made into back-tax book—duty of collector—suit to enforce.—The clerk of the county court shall file the said list in his office, and within ten days thereafter make the same into a "back-tax book," as contemplated by R. S. 1899, section 9300, under the seal of the court, and deliver the same to the collector of the revenue of his county, whose duty it shall be to proceed to collect the same, and to that end shall have the power, and it is hereby made his duty, to levy upon, seize and distrain personal property, and sell the same for such taxes, in the manner provided in this article. In the city of St. Louis the uncollected bills shall be returned with said list: *Provided*, that the city comptroller, or other proper officer, shall return said list within thirty days to the city collector. And if it appear that any county court or county clerk of this state has, within five years next before the taking effect of this act failed in the discharge of any one of the duties prescribed by R. S. 1899, sections 9290 and 9300, of this article, or shall so fail at any time hereafter, to such an extent that the collection of said taxes cannot be enforced by law, it shall be the duty of the said county court and clerk, or their successors in office, immediately after such omission or defect is discovered, to proceed at once to correct the same and supply the omission, or defect, and return such corrected "back-tax book" to the collector, whose duty it shall be to collect the same, as hereinbefore set forth. There being an emergency existing under the constitution, it is hereby ordered that this act shall take effect and be in force from and after its passage. (R. S. 1899, sec. 9292—y.)

(y) Petition must contain description, or the judgment will be void, and this even if a description be contained in the tax bill filed with the petition: *Vaughn vs. Daniels*, 98 Mo. 230; or in the judgment rendered on a defective petition: *O'Day vs. McDaniel*, 181 Mo. 529; and there must be a correct description in the tax bill or the proceedings are ineffectual: *State ex rel. vs. Burroughs*, 174 Mo. 700; an erroneous assessment does not make the judgment void collaterally: *Warren vs. Manwarring*, 173 Mo. 21; bill is prima facie proof that notice was given as required: *State ex rel. vs. Vogelsang*, 183 Mo. 17. Omitted property may be subsequently assessed and taxes recovered, and limitation only begins to run from the time the taxes are delinquent: *State ex rel. vs. Vogelsang*, 183 Mo. 17. The record proper in suit for back taxes is the petition, answer, reply and judgment; hence in the absence of exceptions, and if the petition correctly describes the land, the judgment must be affirmed: *State ex rel. vs. Sanford*, 181 Mo. 134. There can be no personal judgment: *O'Day vs. McDaniel*, but the suit is so far in personam that the Supreme Court has not jurisdiction on appeal on the ground that title to real estate is involved: *State ex rel. vs. Elliott*, 180 Mo. 658. And as to personal remedy of one buying at sale where sale is void see cases cited in *Phelps vs. Brumbach*, 107 Mo. App. 16. The tax should be against the record owner (see *infra*) but after the court has once acquired jurisdiction the proceeding is against the property: *Kilton vs. Smith*, 134 Mo. 499. *Land Co. vs. Bippus*, 200 Mo. 688.

The right to assess for taxation where the taxpayer is not found at his residence or place of business attaches upon a notice being left by the district assessor at either place, between June 1 and January 1, requiring the property owner to make a statement of his taxable property; and on his failure to do so the assessor making the assessment in a lump sum, and no appeal taken, the owner cannot complain in an action to collect the tax: *State ex rel. vs. Cummings*, 151 Mo. 49. The remedy provided by laws 1897, p. 213, for taxes due St. Louis by an action in the name of the city is cumulative, and does not impair the right to maintain an action in the name of the state at the relation of the collector: *State ex rel. vs. Cummings*, 151 Mo. 49, 61. The state is the real party in interest, in an action for delinquent taxes and if a col-

(Continued on page 190.)

Sec. 492. **Institution of suits before dates named.**—Nothing in this chapter shall be so construed as to prevent the institution of suit before the times herein named: *Provided*, that if it be real estate in the city of St. Louis, and the owner thereof, if a resident of such city, is about to remove therefrom, or, being a non-resident of such city, comes within the same, so that personal service can thereby be had upon him, or if real estate be in any county of the state outside of St. Louis city, and the owner thereof is about to remove from such county, or, being a non-resident such county, comes within the same, so that personal service can thereby be had upon him. (R. S. 1899, sec. 9318.)

ARTICLE V.

ASSESSMENT AND TAXATION OF RAILROADS.

Sec. 493. **Duty of prosecuting attorney—when additional counsel may be employed.**—It shall be the duty of the prosecuting attorney of each county to prosecute all suits for taxes under this article. County collectors shall have power, with the approval of the county court, or, in St. Louis city, the approval of the mayor thereof, to employ such attorneys as may be deemed necessary to aid and assist the prosecuting attorney in conducting and managing such suits; and the court in which suit is brought shall, if plaintiff obtain judgment, allow such attorneys a reasonable fee for bringing and conducting such suit, which shall be taxed against the defendant and paid as other costs in the case. At the request of the collector, the governor may direct the attorney-general to assist in the prosecution of any such suits. (R. S. 1899, sec. 9378—z.)

Sec. 494. **Duties of officers of St. Louis city.**—All services required to be performed by county officers under this article shall be performed by the corresponding officers of the city of St. Louis, and wherever the word "county" occurs, the same shall be construed to apply to and include the city of St. Louis. (R. S. 1899, sec. 9383—a.)

ARTICLE VI.

TAXATION OF MERCHANTS AND MANUFACTURERS.

Sec. 495. **Lower rate of tax than that on real estate authorized.**—All cities in this state having a population of over three hundred thousand inhabitants are

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lector retires from office his successor need not be made a party: *State ex rel. vs. Sanford*, 127 Mo. 368.

One who pays all taxes except such as are illegal as being in excess of the constitutional limit, may maintain injunction: *Arnold vs. Hawkins*, 95 Mo. 569, 572, and cases cited.

The collector may establish against a decedent's estate the claim for school and city taxes in the name of the state to his use and at his relation, whether such taxes accrued before or after the death of decedent; and the petition should set out the taxes due each year in separate counts: *State ex rel. vs. Tittmann*, 103 Mo. 553, 564; *State vs. Seaborn*, 139 Mo. 582, 604. The claim may be brought in either the circuit or probate court: *State ex rel. vs. Edwards*, 162 Mo. 1. c. 666. See as to taxes against decedents *Woerner on Administration*, Sec. 329, p. 691; as to real estate taxes, see *Id.* Sec. 518, p. 1151.

It is sufficient to bring a suit for taxes against the party who, by the records, appears to be the owner; and this applies to a married woman, who subsequently becomes a widow and again marries, the record name remaining unchanged; suit against her by her record name, by publication, held sufficient and not the same as publication directed to a dead person, which is void: *Schnitger vs. Rankin*, 192 Mo. 35, citing numerous cases on analogous points. See further as to suit against record owner being sufficient: *Hilton vs. Smith* 134 Mo. 499. *Land Co. vs. Bippus*, 200 Mo. 688. But if the suit is against the apparent or record owner the purchaser takes no title if he had actual notice of who the real owner was, and such real owner is not a party; and facts and circumstances sufficient to put a man of ordinary circumspection on inquiry amount to actual notice; and if the collector has actual notice of who the real owner is it is his duty to bring the suit against him, though he is not the record owner: *Stuart vs. Ramsey*, 196 Mo. 404.

As to when a tax bill, duly certified, makes a proper *prima facie* case, see *State ex rel. vs. Edwards*, 151 Mo. 472, 477.

See also *State ex rel. vs. Tobacco Co.* 140 Mo. 218; *State ex rel. vs. Hurt*, 113 Mo. 90.

Parties acquiring interests after action begun: *State ex rel. vs. Miller*, 16 Mo. App. 539.

As to what allegations, in a petition for collection of taxes, are sufficient, and as to what is a sufficient form of tax bill and certificate, see *State ex rel. vs. Cummings* 151 Mo. 49, 54 *et seq.*

A judgment in a tax suit cannot be set aside collaterally (as in suits to quiet title) by a defendant in the suit brought in by personal service or publication, by showing that the taxes had been paid, so as to defeat the title of the purchaser; but publication notice must be by full name and not merely initials, and if this is not done there is no notice and the sale is void: *Evarts vs. Lumber Co.* 193 Mo. 433. See other cases on these points cited in the opinion. Where the record title gives the owner's full Christian name, notice by publication by initials only is insufficient and the tax sale does not divest him of title. *Burkham vs. Manewal*, 195 Mo. 500, citing numerous cases.

(z) Power to employ special counsel, See *Butler v. Sullivan Co.* 108 Mo. 630; see *State ex rel. vs. Ry.* 176 Mo. 443.

(a) See *State ex rel. vs. Ry.* 117 Mo. 1.

authorized to levy for local purposes, a less *ad valorem* rate of taxation than that levied by them on real estate or other property for the same purpose; and said reductions may, from time to time, be arranged to apply on both or either the tax rate for payments of valid indebtedness or the tax rate for city purposes. (R. S. 1899, sec. 9397.)

Sec. 496. **Regulations of merchants' and manufacturers' licenses.**—All such cities, for city and local purposes, are hereby authorized to license, tax and regulate the occupation of merchants and manufacturers and may graduate the amount of annual license imposed upon a merchant or manufacturer in proportion to the sales made by such merchant or manufacturer during the year next preceding any fixed date. (R. S. 1899, sec. 9389—b.)

CHAPTER TWENTY-SEVEN.

PUBLIC SCHOOLS.

- Art. I. Board of Education created, to establish, maintain and govern public schools of the city of St. Louis.
- Art. II. Pension and retirement fund.
- Art. III. Compulsory education.

ARTICLE I.

BOARD OF EDUCATION CREATED TO ESTABLISH, MAINTAIN AND GOVERN PUBLIC SCHOOLS OF THE CITY OF ST. LOUIS.

Sec. 497. **Board of managers of certain charitable or penal institutions to arrange for education of inmates at public schools.**—The boards of managers of houses of refuge, houses of correction, orphan asylums, or any public institutions having charge of delinquent or dependent and neglected children, in cities now having or which may hereafter have one hundred thousand inhabitants or over, shall have power to arrange with the public school authorities of such cities for the education, schooling, instruction and training of such children. (Laws 1905, p. 301-302.)

Sec. 498. **Emergency.**—Whereas, there is at present a want of power on the part of said boards to arrange with the public school authorities for the education, schooling, instruction and training of the inmates of said public institutions, and whereas, it is important that said boards shall have said powers, an emergency exists within the meaning of the constitution, and therefore this act [Sec. 497] shall take effect and be in force from and after its passage. (Ib.)

Sec. 499. **The act to establish a corporation in St. Louis for public education approved February 13, 1833, and Art. IV, Chapter 143, R. S., repealed.**—An act entitled "An Act to establish a corporation in the city of St. Louis for the purpose of public education," approved Feb. 13th, 1833, and all acts supplementary to and amendatory thereof, and article IV of chapter 143 of the Revised Statutes of Missouri entitled "Election of school directors in cities having three hundred thousand inhabitants," are hereby repealed. (Laws 1897, p. 220.)

Sec. 500. **Cities of 300,000 inhabitants shall constitute a single school district and be a body corporate—supervision of schools vested in a board of education composed of 12 members and a superintendent of instruction and a commissioner of school buildings—board may sue and be sued, etc.**—Every city in this state now having or which may hereafter have three hundred thousand inhabitants or over, together with the territory now within its limits, or which may in the future be included by any change thereof, shall be and constitute a single school district, shall be a body corporate, and the supervision and government of public schools and public school property therein shall be vested in a board of twelve members, to be called and known as the "board of education of ——" (in which title the name of such city shall be inserted) and in a superintendent of instruction and a commissioner of school buildings. Such board of education shall, by and in said name, sue and be sued, purchase, receive, hold and sell property, do all things necessary to accomplish the purpose for the attainment of which such school district is organized, and succeed to all the property, rights and privileges, of whatever kind and nature, granted and belonging to any previous corporation, board of directors or school district in such city, or officers thereof, authorized or empowered by any enactment of the general assembly of the state to do anything in reference to public education: Provided, that all pending suits to which any such previous corporation, board of directors, or school district, or officer thereof, is a party, may be

(b) As to ordinances respecting manufacturers' licenses and taxes, see R. C. sec. 2184, *et seq.*; as to merchants, see R. C. sec. 2194 *et seq.*; and see notes thereto.

Taxation of merchants' licenses for school purposes, power of school board to levy such tax, and duty of register; see State ex rel. vs. Tracy, 94 Mo. 217.

prosecuted to an end in the name of such party. All titles to property previously granted to such city by the United States or this state for school purposes, and the title to all school lands and other property of every kind, shall be vested in the board of education established by this act. (Ib., p. 221, sec. 2. R. S. 1899, sec. 9919—c.)

Sec. 501. General powers of board prescribed.—Every such board of education shall have general and supervising control, government and management of the public schools and public school property in such city; shall exercise generally all powers in the administration of the public school system therein, appoint such officers, agents and employes as it may deem necessary and proper, and fix their compensation; shall have power to fix the time of its meetings, to make, amend and repeal rules and by-laws for its meetings and proceedings, for the government, regulation and management of the public schools and school property in such city, for the transaction of its business, and the examination, qualification and employment of teachers, which rules and by-laws shall be binding on such board of education and all parties dealing with it until formally repealed; to provide for special and standing committees, to loan its funds, and to levy such taxes as are or may be authorized by law for school purposes; and to purchase and hold all property, real and personal, deemed by it necessary for the purposes of public education, or for the investment of the public school funds, to build and construct improvements for such purposes, and to sell the same. Such board of education shall have all the powers of other school districts under the laws of this state except as herein provided. (Ib., p. 222, sec. 3. R. S. 1899, sec. 9920—d.)

Sec. 502. Members of board, how elected, qualifications—no compensation for service.—The members of such board of education shall be elected from such city at large on a general ticket and shall be at least thirty years of age, citizens and residents of the city and tax-payers therein on property therein assessed in their individual names, and shall have been such residents, citizens and tax-payers for at least three years immediately preceding their election. They shall not hold any office, except that of notary public, in such city or state, nor be interested in any contract with or claim against the board, either directly or indirectly. If at any time after the election of any member of said board he becomes interested in any contract with or claim against the board, either directly or indirectly, or as agent or employe of any individual, firm or corporation, which is so interested, he shall thereupon be disqualified to continue as a member of said board, and shall continue to be so disqualified during the remainder of the term for which he was elected. Every member of such board shall, before assuming the duties of his office, take oath before a judge of the circuit court, or justice of the peace of such city, which oath shall be kept of record in such board, that he possesses all the qualifications by this act required, and that he will not, while serving as a member of such board, become interested in any contract with or claim against said board, directly or indirectly, or as agent or employe of any individual, firm or corporation which is so interested, and that he will not be influenced, during his term of office, by any consideration except that of merit and fitness in the appointment of officers and the engagement of employes. No compensation shall be paid to the members of the board, but they shall be exempt from jury duty and from service as election officers during their term of office. (Ib., p. 222, sec. 4. R. S. 1899, sec. 9921—e.)

Sec. 503. Mayor to appoint members of first board until general election—duty of board after its organization—election of president and vice president.—The members of such board of education shall be elected on a general ticket and by the qualified voters of such city at large as hereinafter provided, and shall qualify by taking the oath prescribed by this act, and proceed to organize by electing one of their number president and another vice-president; and thereupon it shall be the duty of any then existing corporation, or board of directors, or officers of the school district of such city, to surrender their offices and to deliver to said board of education, or to its officers, agents or employes, all the public school property, both real and personal,

(c) See Scheme sec. 37; also secs. 13 and 36. State, School and city taxes, how prepared, etc.: See Charter, Art. V, Sec. 26; See Charter provisions upon the subject of Public Schools, in Charter, Article XIII, Secs. 1-5, with annotations appended thereto. Power of School Board to levy taxes for school purposes: State ex rel. vs. Tracy, 94 Mo. 217. The Board of Public Schools is a public, but not a municipal, corporation: Heller vs. Stremmel, 52 Mo. 309; although a *quasi* municipal corporation: State ex rel. vs. Board Pub. S., 112 Mo. 213; and is not subject to garnishment: Kein vs. School District, 42 Mo. App. 460; nor execution: State to use vs. Tiedemann, 69 Mo. 306.

(d) Power of Board to levy taxes: See note to sec. 520 *infra*, p. 197.

(e) See State ex rel. vs. Board Pub. Schools, 112 Mo. 213. Election laws relating to school directors in St. Louis are not void as special legislation: State ex rel. vs. Miller, 100 Mo. 439. The offices of school director and deputy sheriff are not so incompatible that the same person cannot hold both positions; and there is no constitutional inhibition that prohibits such holding: State ex rel. vs. Bus, 135 Mo. 325, 331 *et seq.* See also note to Charter Art. XIII.

of every kind whatsoever, and the control and management of the public school affairs of such city. Provided, that until such board of education shall be organized, the administration of the public schools and the management of school property in such city shall remain in the control of any such existing corporation, board of directors, or officers of the school district, in the same manner and with the same powers as existed prior to the passage of this act, or the attaining by said city of the requisite number of inhabitants. It shall be the duty of the said board of education as soon as practicable after its organization, to appoint a superintendent of public instruction, a commissioner of school buildings, a secretary and treasurer, an auditor, and such other officers, employes and agents as it may deem proper: Provided, that no such officer, employe or agent shall be a member of said board. And such board of education may continue the employment and service of any existing officers, teachers, agents or other employes, in their several capacities, in connection with the administration of school affairs until such time as they may effect the change of the administrative system applicable to the public schools as contemplated in this act; and said board of education may thereafter retain or remove any agents, teachers, janitors, engineers or other employes then rendering service in connection with the public schools of such city. At its first regular meeting after the first day of October in each year following its original organization, said board of education shall reorganize by electing one of its members president and another vice-president. All vacancies in such board shall be filled by the mayor by appointment until the next election for members of said board, when the vacancy shall be filled for the remainder of the term. All rules and by-laws made by any existing corporation, board of directors, or officers of the school district, at such time vested in such city with the management of the public schools, for the government of the public schools and school property, in such city, shall continue in force, so far as consistent with this act, until repealed or altered by such board of education. (Ib., p. 222, sec. 5. R. S. 1899, sec. 9922.)

Sec. 504. Special election of members of board provided for—terms of office and classification.—Within sixty days after the taking effect of this act, or the same becomes applicable to such city, there shall be held in every such city a special election at which twelve members of such board of education shall be elected, who shall, by lot, divide themselves into three classes of four members each. The first class shall hold office until the next ensuing municipal election in such city, whether for general offices or members of the house of delegates; the second class until the second such ensuing election; the third class until the third such ensuing election, and until their successors shall have been elected and qualified. Such special election to be held within sixty days after this act takes effect shall be held on such day as shall be named by the election commissioner of such city, who shall, in due time, name such day and perform all duties imposed on them by any law pertaining to elections in any such city for municipal officers or members of the house of delegates. Such special election and all the elections for members of such board of education shall be subject to and governed by the same laws, rules and regulations which govern elections in such city for municipal officers or members of the house of delegates, including the law pertaining to the registration of voters. After such special election there shall be elected at such municipal election, whether for general municipal officers or for members of the house of delegates, four members of such board of education, who shall assume the duties of their office at the first regular meeting of such board of education after their election, and who shall hold office for six years, and until their successors shall have been elected and qualified. (Ib., p. 223, sec. 6. R. S. 1899, sec. 9923—f.)

Sec. 505. Superintendent of instruction appointed by board—assistants authorized—duties and powers of assistants.—The superintendent of instruction shall be appointed by the board of education for a term of four years, during which term his compensation shall not be reduced. The board of education may, on the nomination of the superintendent of instruction, appoint as many assistant superintendents as it may deem necessary, whose compensation shall be fixed by the board, and who may be removed by the superintendent with the approval of the board. The superintendent of instruction shall have general supervision, subject to the control of the board, of the course of instruction, discipline and conduct of the schools, text-books and studies; and all appointments, promotions and transfers of teachers, and introduction and changes of text-books and apparatus, shall be made only upon the recommendation of the superintendent, and the approval of the board. The superintendent shall have power to suspend any teacher for cause deemed by him sufficient, and the board of education shall take such action upon the restoration or removal of such teacher, as it may deem proper. All appointments and promotions

(f) Constitutionality of payment of expenses of special school elections by the City: State ex rel. vs. Board of Education, 141 Mo. 45 (holding all election expenses to be paid out of the city treasury, not by the School Board).

of teachers shall be made upon the basis of merit, to be ascertained, as far as practicable, in cases of appointments, by examination, and in cases of promotion, by length and character of service. Examination for appointment shall be conducted by the superintendent under regulations to be made by the board. The superintendent of instruction shall devote himself exclusively to the duties of his office and shall have power to appoint clerks, whose number and salary shall be fixed by the board, and shall have power to remove the same; shall exercise a general supervision over the schools of the city, examine their condition and progress, and shall keep himself informed of the progress of education in other cities. He shall advise himself of the need of extension of the school system of the city, shall make reports from time to time as may be fixed by the rules or directed by the board, and shall be responsible to the board for the condition of the instruction and discipline of the schools. (Ib., p. 224, sec. 7. R. S. 1899, sec. 9924.)

Sec. 506. Commissioner of school buildings provided for—duties defined.—The commissioner of school buildings shall be appointed by the board of education for a term of four years, during which term his compensation shall not be reduced. He shall devote all his time to the duties of his office, and shall be charged with the care of the public school buildings of such city, and with the responsibility for the ventilation, warming, sanitary condition and proper repair thereof. He shall prepare, or cause to be prepared, all specifications and drawings required, and shall superintend all the construction and repair of all of such buildings; shall make report each month to the board of education showing in detail the costs of repairs and other work for the previous month on each building, embodying therein the amount of bills outstanding for work ordered by him, and stating specifically the cases where work was done, or ordered, without public letting; shall superintend all the advertisements for bids and the letting of contracts; and shall, within the limits of appropriations theretofore made by the board of education for repairs, make all contracts for the repairs of school property except where the cost of such repairs shall exceed the sum of fifty dollars. He shall give bond in such sum as may be fixed by the board of education, which shall not be less than ten thousand dollars, conditioned upon the faithful performance of the duties of his office. (Ib., p. 224, sec. 8. R. S. 1899, sec. 9925.)

Sec. 507. Commissioner to appoint engineers, janitors, etc.—Subject to the approval of the board of education as to the number and salaries, the commissioner of school buildings shall have power to appoint as many engineers, janitors and other employees and agents as may be necessary for the proper performance of the duties of his department, for whom he shall be responsible and whom he shall have power to remove; but the board of education may provide for a competitive examination for the positions of janitors and engineers; and when such provision shall have been made, the commissioner of school buildings may be required by the board to appoint janitors and engineers from the list obtained by such examination. He shall appoint such assistants and deputies as may be authorized by the board of education, whose compensation shall be fixed by the board; and one of said assistants shall be a trained and educated engineer, qualified to design and construct the heating, lighting, ventilating and sanitary machinery and apparatus connected with the public school buildings. Such assistants and deputies shall be subject to removal by the commissioner of school buildings, who shall be responsible for the proper performance of their duties. The commissioner of school buildings may be removed by the board of education for cause by a two-thirds vote of the entire board. He shall perform such other duties as may be required of him by the board. (Ib., p. 225, sec. 9. R. S. 1899, sec. 9926.)

Sec. 508. Contracts for buildings and repairs shall be made by board—construction to be under direction of commissioner of school buildings.—All contracts for the erection of school buildings and all contracts for repairs and alterations in school property exceeding the amount of fifty dollars shall be made by said board of education, after public letting, to the lowest responsible bidder complying with the terms of the letting. The necessary specifications and drawing shall be prepared for all such work, and bids therefor shall be solicited by such advertisement as the board of education may provide. All other work of construction and repairs shall be made directly by the commissioner of school buildings as herein provided. For all work of construction and repairs authorized to be done directly by the commissioner of school buildings, he shall furnish the necessary specifications and drawings, except in cases of emergency, where the cost shall not exceed the sum of one hundred dollars, and shall solicit bids for such work as may be provided for by the board of education. No bids shall be entertained by the commissioner of school buildings which are not made in accordance with the specifications furnished by him, and all contracts shall be let to the lowest responsible bidder complying with the terms of the letting: Provided, however, that the said commissioner shall have the right to reject any and all bids. (Ib., p. 225, sec. 10. R. S. 1899, sec. 9927.)

Sec. 509. Board of education shall advertise for proposals for supplies—distribution of supplies.—The board of education shall, at or prior to the beginning of each fiscal year, cause advertisements to be made under such regulations as it may provide, for proposals for furnishing the supplies required in the schools and by the board in the ensuing year; and every contract therefor shall be awarded to the lowest responsible bidder complying with the terms of the letting: Provided, however, that said board shall have and reserve the right to reject any and all bids. If other supplies are required during the year they shall be furnished under contract awarded in like manner; but the board may authorize the purchase of supplies not exceeding fifty dollars in amount without letting of contract. The board shall make distribution of supplies through such agencies and in such manner as it deems proper; and the board may contract for text-books or school apparatus for such term of years as it deems proper. (Ib., p. 225, sec. 11. R. S. 1899, sec. 9928.)

Sec. 510. Board shall advertise for bids from banks and trust companies for current deposits—fiscal year of board.—The board of education shall, in the month of June of each year, advertise for bids from the banks and trust companies in such city for the current deposits of such board of education, to be secured by bonds of the United States, bonds of the state of Missouri, or bonds of such city, which said bids shall specify the rate of interest to be allowed to said board on such deposits and the nature of the security offered; and such deposits shall be annually awarded to the bank or trust company that offers, with the required security, the highest rate of interest therefor; and the board shall cause contracts for the ensuing year to be made with such bank or trust company so receiving the award of such deposits. Such board shall thereupon cause all funds received to be paid into such designated depository. The fiscal year of the board shall end on the 30th day of June of each year, and the annual contract shall be made in the month of June of each year for the deposits of the succeeding fiscal year. It shall be the duty of the president of the board in each year, immediately after the selecting of the depository of the school moneys for the succeeding year, to notify the treasurer of the state of Missouri, and the collector of school taxes in such city to make all payments of money apportioned, belonging to or distributed to such board, to such depository; and such officer shall, upon making such deposits, take from such depository triplicate receipts therefor, one of which shall be retained by the officer making such deposits, one delivered to the secretary and treasurer and the third delivered to the auditor of the board. (Ib., p. 226, sec. 12. R. S. 1899, sec. 9929.)

Sec. 511. Board shall select a secretary and treasurer—bond required—duties and salary.—The board shall select a competent secretary and treasurer, who shall hold office for a term of four years, and give bond in such sum as the board may require, which shall not be less than fifty thousand dollars, and who shall be subject to removal for cause by a two-thirds vote of the entire board. The compensation of the secretary and treasurer shall not be reduced during his term of office. He shall exercise, subject to the control of the board, a general supervision over the fiscal affairs of the public schools of the city, the collection and payment of funds to the school depository, and the disbursement of all revenues and moneys belonging to the board. He shall have supervision under the direction of the board, of the permanent school fund of the city, and the investment thereof, and all invested property of the board. He shall record the proceedings of the board in such manner as may be directed by the board, and shall deposit daily in the designated depository of the board all money collected or received by him for the board. He shall furnish at the beginning of each month a statement of receipts and disbursements of the preceding month; and at the end of the fiscal year he shall make to the board a full and comprehensive report of its financial affairs for the preceding year. He shall be the custodian of all securities, documents, title papers, books of record and other papers belonging to the board under such conditions as the board may direct. It shall be his duty to see that no liability is incurred or expenditure made without due authority of law, and that appropriations are not overdrawn. Subject to the approval of the board as to number and salaries, he shall have power to appoint assistants, for whom he shall be responsible, and whom he may remove. He shall perform such other duties as may be required of him by the board. (Ib., p. 226, sec. 13. R. S. 1899, sec. 9930.)

Sec. 512. Disbursements of board, how made.—All disbursements of the board of education shall be made by checks drawn upon the depository in such form and subject to such regulations as the board may provide; but no payment shall be made except upon warrant drawn by the auditor and countersigned by the secretary and treasurer. (Ib., p. 227, sec. 14. R. S. 1899, sec. 9931.)

Sec. 513. Board shall appoint an auditor—bond, duties and term of office.—The board shall appoint a competent person as auditor, who shall serve for a term of four years and give bond in the sum of ten thousand dollars. His salary shall not be reduced during the term of his office, and he may be removed for cause

by a two-thirds vote of the entire board. He shall be the general accountant of the board, and preserve in his office all accounts, vouchers and contracts pertaining to school affairs. It shall be his duty to examine and audit all accounts and demands against the board, and to certify their correctness to the secretary and treasurer of the board. He shall adopt a proper system of double-entry book-keeping. He shall require settlement of accounts to be verified by affidavit whenever he thinks proper, and shall keep the accounts of the schools in a systematic and orderly manner. No claim or demand shall be audited unless it is authorized by law and the rules of the board, and be in a proper and fully itemized form, and unless the amount required for the payment of the same shall have theretofore been appropriated by the board. He shall perform such other duties as may be required by the board. (Ib., p. 227, sec. 15. R. S. 1899, sec. 9932.)

Sec. 514. Duty of board to apportion revenues to the different departments, etc.—It shall be the duty of such board of education, at the beginning of each fiscal year, to apportion the revenues available for that year to the different departments, for expenditure in support of the schools, for that year; and no report or resolution shall be adopted by the board calling for the expenditure of money unless it states specifically the fund from which the appropriation is to be made, and is accompanied by the certificate of the secretary and treasurer that there is a balance in such fund available for such expenditure. (Ib., p. 227, sec. 16. R. S. 1899, sec. 9933.)

Sec. 515. Mayor shall appoint annually an expert to examine books, accounts and vouchers of officers—compensation of expert.—At the close of each fiscal school year, the mayor of such city shall appoint one or more expert accountants, who shall examine the books, accounts and vouchers of the secretary and treasurer, auditor, commissioner of school buildings and all other departments of expenditure of the board, and shall make due report thereof to the mayor and board of education of such city. All the officers and employees of the board shall produce and submit to such accountants for examination all books, papers, documents, vouchers and accounts in their office belonging to the same or thereto pertaining, and shall in every way assist said accountants in their work. In the report to be made by said accountants they may make any recommendation they deem proper as to the business methods of such officers and employees. A reasonable compensation for such services shall be paid by the board. (Ib., p. 227, sec. 17. R. S. 1899, sec. 9934.)

Sec. 516. Circuit court to have jurisdiction over members of the board and its officers—jurisdiction exercised upon petition.—The circuit court of such city shall have jurisdiction over the members of such board of education and its officers to require them to account for their official conduct in the management and disposition of the funds, property and business committed to their charge; to order, decree and compel payment by them to the public school fund of all sums of money, and of the value of all property which may have been improperly retained by them, or transferred to others, or which may have been lost or wasted by any violation of their duties or abuse of their powers as such members or officers of such board; to suspend any member or officer from exercising his office, whensoever it shall appear that he has abused his trust or become disqualified; to remove any such member or officer upon proof or conviction of gross misconduct or disqualification for his office; to restrain and prevent any alienation of property of the public schools by said members or officers, in cases where it may be threatened, or there is good reason to apprehend that it is intended to be made in fraud of the rights and interests of the public schools. The jurisdiction conferred by this article shall be exercised as in ordinary cases upon petition, filed by or at the instance of any member or officer of such board, or at the instance of any ten citizens and householders of such city, who shall join in such petition, verified by the affidavit of at least one of them. Such petition shall be heard in a summary manner after ten days' notice in writing to the member or officer complained of; and an appeal shall lie from the judgment of the said circuit court as in other causes, and be speedily determined; but such appeal shall not operate under any condition as a supersedeas of a judgment of suspension or removal from office. (Ib., p. 227, sec. 18. R. S. 1899, sec. 9935.)

Sec. 517. Members of board or officers violating act guilty of misdemeanor—punishment.—Any member, officer or employee of such board who shall willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by fine of not more than five hundred dollars or imprisonment not exceeding one year. (Ib., p. 288, sec. 19. R. S. 1899, sec. 9936.)

Sec. 518. Failure to attend meetings without excuse vacates office.—Any member failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated his seat; and it shall be the duty of the secretary of the board to certify such fact to the mayor, who shall thereupon make an appointment to fill the unexpired term of such member. It shall likewise be the duty of the secretary to certify to the mayor any other vacancy occurring in the board. The mayor shall forthwith fill the vacancy until the next municipal election for general

officers or for members of the house of delegates. (Ib., p. 228, sec. 20. R. S. 1899, sec. 9937.)

Sec. 519. Testimony in investigations, how taken.—All testimony taken upon any investigation made by the board, or in any proceedings before the board for the removal of any officer or employe of the board, or in any investigation made by any committee of the board, shall be under oath, which oath may be administered by the secretary and treasurer, or any officer authorized to administer oaths. (Ib., p. 228, sec. 21. R. S. 1899, sec. 9938.)

Sec. 520. The board invested with power to levy and collect taxes, etc.—The board of education shall have power to levy and collect all taxes authorized by law to be levied for school purposes in such city, and to collect all fines and penalties provided by law to be paid into the school funds; and the officers of such board and the collector and assessor in such city, and all other officers of such city, and of the state, concerned with the assessment and collection of taxes, fines and penalties, shall perform such duties in relation to the levying and collection of school taxes and the collection of such fines and penalties, and the payment thereof to said board for school purposes, as are now imposed by the existing law upon such officers in relation to the levy and collection of school taxes and the collection of fines and penalties payable to the school funds; and nothing in this act shall be construed as repealing any existing law providing for the assessment and collection of school taxes in such city; and all powers and duties conferred by existing law upon any board in relation thereto shall be continued in the board created by this act. (Ib., p. 229, sec. 22. R. S. 1899, sec. 9939—*g.*)

Sec. 521. Elections to increase tax levy, how called and held.—Any election which may be called by the board of education of such city to increase the rate of taxation for school purposes, or for any other purpose authorized by article 1, chapter 154, of the Revised Statutes of 1899, shall be held at such time as the board may direct, under the general election laws governing such city. The board of education shall have the powers of a school district in annual meeting, and shall perform such duties as are required by general laws of school districts, so far as such are applicable to the public school affairs of such city, and consistent with the provisions of this act. It shall at least once in every five years cause an enumeration to be made of all persons over six and under twenty years of age, resident within the city, designating male and female, white and colored, and age of each, together with the residence of said persons by street and number. In the years intervening between the taking of such enumeration said board may by resolution adopt [the] last enumeration therein made as its enumeration for the current year. A copy of the aggregate of such enumeration, or such resolution (as the case may be), duly certified by the president and secretary of said board under its corporate seal, shall be forwarded to the state superintendent of public schools and to the state auditor on or before the first day of July in each year. (Laws 1889, p. 352. R. S. 1899, sec. 9940.)

Sec. 522. What shall constitute the permanent school fund—investment.—All school lands heretofore granted by the general assembly to any such city, or to any incorporated board for the benefit of such city, for the purpose of public education, including all lands of such board granted by the general government of the United States, or of this state and lying within the limits of said state, for the schools as aforesaid, shall constitute the permanent school fund of such city, only the income of which shall be used for the support of such public schools in such city. Nothing herein contained shall affect the right of such board to dispose of such lands: Provided, that the proceeds be duly invested and only the income thereof be used for the support of the public schools. (Laws 1897, p. 229, sec. 24. R. S. 1899, sec. 9941.)

Sec. 523. Board required to publish report.—The board of education shall, as soon as practicable after the close of each school year, cause to be printed and published a report of the condition of the public schools under its charge, and of all the property under its control, with a full and accurate account of all the receipts and expenditures of the board during the preceding year, and of the condition of all invested property. (Ib., p. 229, sec. 25. R. S. 1899, sec. 9942.)

Sec. 524. Inconsistent acts repealed.—All acts and parts of acts inconsistent with this act are hereby repealed. (Ib., p. 229, sec. 26.)

Sec. 525. Emergency clause.—The laws for the organization and government of school districts in cities having three hundred thousand inhabitants and over being defective and inadequate, an emergency within the meaning of the constitution is hereby created, requiring that this act shall take effect immediately; therefore, this act shall take effect and be in force from and after its passage. (Ib., p. 229, sec. 27.)

(*g.*) Merchants' licenses are taxable for school purposes. *State ex rel. v. Tracy*, 94 Mo. 217. St. Louis criminal court has no power to require sheriff to pay into court money collected for schools. This court can only require a settlement. In *re Staed*, 116 Mo. 537. Collector of city may maintain action to collect taxes for schools against estate of a decedent. *State ex rel. Ziegenhein v. Tillman*, 103 Mo. 553. See note to Charter, Art. XIII, sections 1 and 4.

ARTICLE II.

PENSION AND RETIREMENT FUND.

Sec. 526. Pension fund provided for school teachers and employes.—The public school board or boards of directors having charge of public schools in cities now or hereafter having a population of three hundred thousand inhabitants or more shall have power to create a public school teachers' and administrative and clerical employes' pension and retirement fund, and for that purpose they must set apart the following moneys, to wit: (1) An amount not exceeding one per cent. per annum of the respective salaries paid to teachers and administrative and clerical employes in the employment of such boards, who shall elect to come under and participate in the benefits of this act, which amount shall be deducted from said salaries annually, at such time and in such manner as the board of trustees shall prescribe. (2) All moneys received from donations, legacies, gifts, bequests or otherwise, on account of said fund. (3) All moneys which may be deprived [derived] from other methods of increment as may be duly and legally devised for the increase of said fund. (Laws 1897, p. 230. R. S. 1899, sec. 9943.)

Sec. 527. Board of trustees created.—A committee consisting of four members of such boards, together with the superintendent of schools and four representatives selected by the teachers and administrative and clerical employes of the public schools under control of each of said boards, who shall elect to come under and participate in the benefits of this act, shall form a board of trustees, a majority of whom shall determine the amount to be deducted from the salaries paid to teachers and administrative and clerical employes as aforesaid, and shall have charge of and administer said funds, and shall have power to invest the same as shall be deemed most beneficial to said fund, and shall have power to make payments from said fund of annuities granted in pursuance of this act, and shall from time to time make and establish such rules and regulations for the administration of said fund as they shall deem best. (Laws 1897, p. 230. R. S. 1899, sec. 9944.)

Sec. 528. Conditions upon which teachers and employes may be retired.—The public school boards or boards of directors having charge of public schools in such cities shall have power, by a majority vote of all members, to retire any female teacher or other administrative and clerical employe who shall have elected to come under and participate in the benefits of this act, as aforesaid, and who shall have taught in public schools or rendered service therein for a period aggregating twenty-five years; and any male teacher or administrative and clerical employe who shall have elected to come under and participate in the benefits of this act, as aforesaid, and who shall have taught or rendered such service for a period aggregating thirty years; and such teacher or administrative and clerical employe shall have the right, after such term of service, to retire and become a beneficiary under this act, provided he shall be in the judgment of the board of trustees, physically or mentally incapacitated for such service: Provided, however, that four-fifths of the said term of service shall have been rendered by said beneficiary within the limits of the municipality where said boards have jurisdiction: Provided further, that said board of trustees shall have full power to pass on the applications of all teachers, administrative and clerical employes, who may elect to come under and participate in the benefits of this act, and prescribe rules governing time of service. (Laws 1897, p. 230. R. S. 1899, sec. 9945.)

Sec. 529. Annuity of retired teachers.—Each teacher and administrative and clerical employe so retired shall thereafter be entitled to receive as an annuity sixty per cent of the annual salary paid to said teacher or administrative and clerical employe at the date of such retirement: Provided, however, that such annuity shall not exceed the sum of eight hundred dollars, which shall be paid by said boards out of the fund created in accordance with this act, in the manner provided by law for the payment of salaries. (Laws 1897, p. 230. R. S. 1899, sec. 9946.)

Sec. 530. Board of trustees shall manage and control fund.—Said board of trustees is hereby given the power to use both the principal and income of said fund for the payment of the annuities hereinbefore mentioned, and to manage, invest and accumulate and otherwise control said fund, as it may provide by its rules and regulations, and shall have power to reduce from time to time the amount of all annuities. (Laws 1897, p. 230. R. S. 1899, sec. 9947.)

Sec. 531. Members, when declared annuitants.—That all members who shall become, either physically or mentally, incapacitated for school work, may, upon recommendation of the board of trustees, be declared by the school board to be annuitants, and, upon such action, shall receive an annuity as provided by the law as aforesaid. (Laws 1897, p. 230. R. S. 1899, sec. 9948.)

Sec. 532. Annuitants must pay into treasury 20 per cent of salary.—No person shall become an annuitant who shall not have paid into the treasury a sum equal to twenty per cent of the annual salary received by him at the time of making application for annuity. (Laws 1897, p. 230. R. S. 1899, sec. 9949.)

Sec. 533. Duties of secretaries of public school boards with reference to pension fund.—The secretaries of such public school boards or boards of directors so having charge of public school funds, shall certify monthly to the treasurers thereof, all amounts deducted from the salaries of teachers, special teachers, principals and administrative and clerical employes, in accordance with the provisions of this act, which amounts, as well as all other moneys contributed to said fund, shall be set apart and held by said treasurer as a special fund for the purposes hereinbefore specified, subject to the order of said boards of trustees, as aforesaid, and shall be paid out upon warrants signed by the president and secretary of said public school boards. (Laws 1895, p. 268. R. S. 1899, sec. 9950.)

Sec. 534. Acts of boards of trustees to be passed upon by the public school boards.—Every act of said boards of trustees shall be reported to and be passed upon by such public school boards or boards of directors having charge of public schools in such cities. (Laws 1895, p. 268. R. S. 1899, sec. 9951.)

ARTICLE III.

COMPULSORY EDUCATION.

(Act of March 19, 1907.)

Sec. 534a. Duty of parent or guardian.—Every parent, guardian or other person in any city of the state of Missouri of five hundred thousand inhabitants or over having charge, control or custody of a child between the ages of eight and fourteen years, shall cause such child to attend regularly some day school, public, private, parochial or parish, not less than the entire time the school which said child attends is in session, or shall provide such child at home with such regular daily instructions during the usual hours as shall, in the judgment of a court having competent jurisdiction, be substantially equivalent at least to the instruction given the children of like age at said day school in the locality in which said child resides; and every parent, guardian, or person in the state of Missouri in such cities having charge, control or custody of a child between the ages of fourteen and sixteen years, who is not actually and regularly and lawfully engaged for at least six hours each day in some useful employment or service, shall cause said child to attend regularly some day school as aforesaid. (Laws 1907, p. 429, sec. 1.)

Sec. 534b. Children—when excused.—A child between the ages aforesaid may be excused temporarily from complying with the provisions of this act, in whole or in part, if it be shown to the satisfaction of the attendance officer, or if he declines to excuse, to the satisfaction of a court of competent jurisdiction, that said parent, guardian or person having charge, control or custody of said child is not able, through extreme destitution, to provide or obtain in any way proper clothing for said child; or that said child is mentally or physically incapacitated to attend school for the whole period required, or any part thereof, or that the labor of said child is absolutely necessary for the support of the family, or that said child has completed the common school course, as prescribed by constituted authority, or its equivalent, and has received a certificate of graduation therefrom: Provided, however, that in cities maintaining evening schools any child who has been exempted from attendance in the day school for the reason that the labor of said child is absolutely necessary for the support of the family, shall be required to attend said evening schools while they are in session, unless an exemption from such attendance is granted by the attendance officer. (Ib., sec. 2.)

Sec. 534c. Board to appoint attendance officer—powers.—The board having charge of public schools in such city may appoint, and remove at pleasure, one or more attendance officers to enforce the provisions of this act, and shall fix the compensation and manner of performance of the duties of said attendance officers, and shall pay them from the public school funds; and the attendance officer or officers, as aforesaid, shall have the right to investigate the claims of children for exemption under section two, and to issue certificates of exemption when such claims are established to his or their satisfaction; shall serve written or printed notices upon the parents, or guardians, or persons, who, having charge, control or custody of children, as aforesaid, violate the provisions of this act; shall, when reasonable doubt exists as to the age of any such child, require a properly attested birth certificate or an affidavit stating such child's age, giving the date of birth, physical characteristics and bearing the signature of the child; shall have the right to visit and enter any mine, office, factory, workshop, business house, place of amusement, or other place in which children are employed or engaged in any kind of service, or any place or building in which children loiter or idle during school hours; shall have the right to require a properly attested certificate of the attendance of any child or children at such day school; shall have power to arrest, without warrant, any truant, or non-attendants or other juvenile disorderly persons, and place them in some school, or take them to their homes, or take them to any place of detention provided for neglected or delinquent children by such city; shall serve in the cases

which they prosecute without further fee or compensation than that paid by the board as aforesaid, and shall carry into effect such other regulations as may lawfully be required by the board appointing them. (Laws 1907, p. 429, sec. 3.)

Sec. 534d. Certain persons to administer oaths—certificates.—Superintendents, principals and persons in charge of schools and attendance officers are authorized to administer oaths and to take the affidavits of parent, guardian or other person having charge, control or custody of children, concerning the ages of children, and to furnish children with certificates of such affidavits; such certificates must have attached the signature of the child for whom it is issued, the signature of the persons who made and took the affidavit, and the seal of the board having charge of public schools. Aforesaid certificates shall contain the description of the color of eye and hair of the child to whom it is issued. (Ib., p. 430, sec. 4.)

Sec. 534e. False information as to age—penalty.—It shall be a misdemeanor for any parent, guardian or other person having charge, control or custody of children to give false information to superintendents or principals of schools or to the attendance officer or to make a false affidavit concerning the age of a child, and aforesaid parent, guardian or other person shall, upon conviction of such misdemeanor, be fined not exceeding twenty-five dollars. (Ib., sec. 5.)

Sec. 534f. Truant or parental schools.—The board having charge of the public schools of such city may establish and maintain from the public school funds one or more truant or parental schools in such city, or any such board may, at its discretion, purchase land and maintain such school either within or without such city for children who are between the ages of eight and sixteen years, and who are either habitual truants from any day school in which they are enrolled as pupils, or who, while in attendance at any school, are incorrigible, vicious or immoral, or who habitually loiter or wander about the streets or roads, or other public places without lawful employment, or who habitually frequent, during school hours, any place of amusement, or who idle or loiter in any place or building during school hours; and may, by said school board, through its officers, be assigned to and required and compelled to attend such truant or parental school, or any department of the graded schools as such board may direct; or such juvenile disorderly persons may be arrested, without warrant, by the attendance officers, and may be prosecuted by them in the juvenile court of said city, and may be dealt with in such manner as provided for the treatment of neglected or delinquent children under the act establishing said juvenile court in said city. (Ib., sec. 6.)

Sec. 534g. Parent violating act—penalty.—Any parent or guardian or person who having charge, control or custody of a child in such city, between the ages of eight and sixteen years, violates any provision of this act, shall be warned, as aforesaid, as soon as possible after the beginning of the public school term of the city, and also at any time thereafter, by the attendance officer herein provided for, to place and keep said child in regular attendance at some school within ten days from the service of said written or printed notice of warning, and upon failure to comply with this act after a lapse of ten days from the date of the service of said notice of warning, said parent or guardian, or person having charge, control or custody of said child shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not less than ten dollars and not more than twenty-five dollars, or [be] imprisoned for not less than two days and not more than ten days, or both such fine and imprisonment: Provided, that said sentence of fine or imprisonment, or both, may be suspended and finally remitted by the court with or without the payment of costs, at the discretion of the court, if the said child be immediately placed and kept in regular attendance in some day school as aforesaid, and if such fact of regular attendance is proven subsequently to the satisfaction of said court by a properly attested certificate of attendance by the superintendent, principal or person in charge of said day school. (Ib., sec. 7.)

Sec. 534h. Children between 14 and 16 not to be employed certain places, etc.—certificate.—No child between the ages of fourteen and sixteen shall be employed or be engaged in service in any mine, factory, workshop, business house, place of amusement, or in any other place or manner who has not first furnished his employer a properly attested birth certificate, or an affidavit, as provided for in section four of this act, giving the date of birth and physical characteristics and the signature of the child. (Ib., p. 431, sec. 8.)

Sec. 534i. Same—children between 8 and 14 years.—No child between the ages of eight and fourteen shall be employed or be engaged in service during the usual school hours in any mine, office, factory, workshop, business house, place of amusement, or in any other place or manner, unless such child shall first furnish his employer a certificate, properly signed by the attendance officer, or an excuse from school attendance issued by a court of competent jurisdiction, showing that such child is for the time being excused from attendance at school, in accordance with section two of this act. (Ib., sec. 9.)

Sec. 534j. **Employer violating act—penalty.**—Every owner, superintendent, officer, or person in charge of any mine, office, factory, workshop, business house, or place of amusement, or any person who shall employ or have in his service any child between eight and sixteen years of age contrary to the provisions of this act, shall be guilty of a misdemeanor, and, upon conviction, shall be fined for each offense in a sum not less than twenty or more than fifty dollars and costs. (Ib., sec. 10.)

Sec. 534k. **Employer to keep record of age.**—Every owner, superintendent, officer, or person in charge of any mine, office, factory, workshop, business house, or place of amusement, or any person who employs or has in his service any child between eight and sixteen years of age, shall preserve and keep on file for each child between the aforesaid ages that is in his employ or service, the affidavit or certificate of age, or the certificate of exemption from school attendance which has been furnished to said employer, as provided for by sections nine and ten of this act; and every employer, as aforesaid, shall, upon the request of the attendance officer, submit any or each of said certificates, affidavits, or exemptions from school attendance for inspection and examination of such officer. Any employer failing to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined for such offense not less than twenty dollars, nor more than fifty dollars, and costs. (Ib., sec. 11.)

Sec. 534l. **Prosecutions, how and where brought—juvenile court.**—Prosecutions under this act shall be brought in the name of the state of Missouri. The circuit court, when vested as a juvenile court, with jurisdiction over juvenile offenders, shall have concurrent jurisdiction with the court in said city having general jurisdiction over misdemeanors to try and determine any cases of violation of the provisions of this act by parents, employees or other persons, and shall also have jurisdiction to determine exemptions under section two [538b] and a general supervisory jurisdiction over the enforcement of the provisions of this act. (Ib., p. 432, sec. 12.)

Sec. 534m. **Repealing act.**—An act entitled "An act to enforce the constitutional right of every child in the state to an education, to provide for truant or parental schools and attendance officers in cities of ten thousand population or more, and to prohibit the employment of children during school hours," approved April 11, 1905, so far as the same applies to cities having five hundred thousand inhabitants or more, is hereby repealed. (Ib., sec. 13.)

Sec. 534n. **Emergency.**—The existing laws having been found inadequate in cities of five hundred thousand inhabitants and over for the declared purpose of enforcing the constitutional right of every child in such city to an education, and the necessity of making an adequate provision therefor, creates an emergency within the meaning of the Constitution, and therefore, this act shall take effect and be in force from and after its passage. (Ib., sec. 14.)

CHAPTER TWENTY-EIGHT.

SANITARY DISTRICTS AND SEWERS.*

Section 535. **Sanitary districts—how established.**—Whenever the construction and maintenance of a common outlet or channel, or of a system of drains or sewers, for the drainage of any area in the state of Missouri, shall become necessary to secure proper sanitary conditions for the preservation of the public health, if such area shall lie in part within and in part without the corporate limits of any city having a population of 300,000 or more, said area may be established and incorporated as a sanitary district under this act, in the manner following, to wit: The mayor and assembly of the city, or the county court of the county, within whose limits any part of such area may lie, or in case the area is situated in part in a city authorized to perform all the functions of a county, and part in a county, both the mayor and assembly and the county court may petition the circuit court or courts having jurisdiction for the appointment of commissioners as hereinafter provided, and to take such further action as may be necessary to the submission to the legal voters resident in such area, of the question whether such area shall be organized and incorporated as a sanitary district under this act. Such petition or petitions, which may be in the form of an ordinance of the city or order of the county court, shall set forth a description in general terms of the territory to be embraced in, and suggest a name for, the proposed sanitary district. (Laws 1905, p. 62, sec. 1.)

*Laws 1905, p. 62, secs. 1-16. See Charter provisions on sewers, etc: Art. IV, secs. 34, 36; Art. III, sec. 26, clause 2; and particularly Art. VI, sec. 20-23; also notations thereto appended.

Sec. 536. Commissions—reports—elections.—The circuit court or courts so petitioned are hereby authorized to appoint three disinterested persons, one of whom shall be a civil engineer or surveyor, as commissioners to lay out and define the boundaries of the proposed sanitary district. Said commissioners may alter, or amend the boundaries of the proposed district, as set forth in the petition or petitions, so that it may embrace all of the area capable of being efficiently drained by the common outlet or channel, or by the system of sewers or drains, or so as to exclude from the sanitary district any part of the natural drainage area which is so situated as not to be benefited by the proposed sanitary drainage, and for this purpose they shall have power to have made all surveys and maps necessary to locate and describe the said boundaries. Said commissioners shall qualify by taking oath to faithfully and impartially perform their duties, and when so qualified shall give notice by publication at least five times, in one or more newspapers having a general circulation in the proposed district, of the time and place where they will meet to consider and establish said boundaries. Said notice shall be given at least twenty days prior to the meeting, and the meeting place shall be in the courthouse of the county, or city hall of the city. At the meeting the commissioner first named in the order of appointment shall preside, and all persons residing or owning real property in such proposed district, or adjacent thereto, shall have the right to be heard as to the location of the boundaries of such proposed district; and the commissioners or a majority of them after such hearing shall fix and determine the boundaries of the proposed district. The commissioners may adjourn from day to day until the hearing shall be complete, and for their services shall receive \$10 per day each, for each day of actual service. They may employ a competent person as stenographer and clerk, whose compensation shall be \$5 per day. The commissioners shall make their report, accompanied by a map or plan showing the boundaries of the proposed district, in relation to the property lines intersected or followed by them, also in relation to city or county boundaries, to the court or courts by which they were appointed. Said report and map, if approved by the court or courts, shall then be filed in the office of the recorder of deeds for the county or counties, or city, in which the proposed district is situated, and copies of the map with the mayor of the city and with the county court of the respective county or counties. It shall then be the duty of said mayor and county court or courts to submit to the legal voters of the proposed district the question of the organization and incorporation of the proposed sanitary district, with boundaries as determined by the said commissioners and approved by the said court or courts, at an election to be held on the first Tuesday after the first Monday in November thence next ensuing; notice whereof shall be given as required by the statutes of the state of Missouri regarding the election of county officers. Polls shall be opened, so far as practicable, at or near the usual polling places at general elections. Votes shall be received and counted by three persons at each polling place, chosen from their number by the lawfully qualified electors resident in the proposed district, not less than nine in number present at any poll. The returns of the vote, certified to under oath by those who receive and count the vote, shall be made to the secretary of state of the state of Missouri, who shall ascertain and declare the result. Each legal voter resident within such proposed sanitary district shall have a right to cast a ballot at such election, with the words thereon: "For sanitary district," or "Against sanitary district." If a majority of the votes cast shall be "For sanitary district," such proposed district shall thenceforth be deemed an organized sanitary district under this act. When the board of trustees hereinafter provided for shall be appointed and organized, such sanitary district shall be considered in law and equity a body corporate and politic, known by the name and style of "The sanitary district of ————," and by such name and style may sue and be sued, contract and be contracted with, acquire and hold real estate and personal property necessary for corporate purposes, and adopt a common seal. All courts in this state shall take judicial notice of the existence of all sanitary districts organized under this act. If the proposition to establish the sanitary district is carried, the cost of all preliminary proceedings shall be borne by the district; if it is defeated, all costs of court, of commissioners and of the election shall be borne by the city and county, if of independent jurisdiction—each being liable for all expenses in regard to proceedings under its petitions. If its jurisdiction is single, the county court shall pay for all said expenses. When a natural drainage area includes territory lying in part in a county and in part in a city exercising the functions of a county, or in two or more counties, then the proceedings hereinbefore prescribed shall state that the proposition is to unite the parts so situated in independent jurisdictions into a single sanitary district; and if the proposition is carried by a majority vote in each of the parts, then the district shall be united and organized as described in said proceedings, and the circuit court having jurisdiction over the major part of the area included in the

district so organized, shall have and is directed to exercise jurisdiction in all cases or questions arising out of the organization of the district, or from the acts of the board of trustees thereof. (Ib., p. 63, sec. 2.)

Sec. 537. Trustees—term, etc.—The board of trustees for the sanitary district shall be constituted as follows: The county court shall appoint one; the mayor of the city, with the approval of the higher branch of the legislative department of the city government, shall appoint one; and the court having jurisdiction over the whole or major part of the territory embraced in the district, as shown by the map thereof, shall appoint one, who shall be a civil engineer of good repute in his profession, and a recognized expert in matters of drainage. The appointee of the circuit court shall be the president of the board, and its executive officer. For their services the trustees shall receive salaries proportioned to the actual services rendered the district; the amount of salaries in each case shall be fixed on a per diem basis by the circuit court which appoints the third member, as before provided. If more than one sanitary district be organized with territory common to the same city and county or counties, the same persons may be appointed as trustees for any or all such districts. The official or court appointing the trustees shall have the power to appoint a successor when any vacancy occurs by reason of death, resignation, or removal from office or expiration of term. He or it may also remove such appointee for cause. The term of office of the first appointee of the circuit court shall be three years; that of the county court two years, and that of the mayor one year. Subsequent terms shall all be for three years, always subject to the condition that the board of trustees may be abolished, as hereinafter provided. The board of trustees shall have power to elect a clerk, chief engineer and attorney, and to employ from time to time such other persons as may be necessary, and to remove and discharge them at its pleasure; to fix the compensation of such appointees or employees, and to require them to give bond for the faithful performance of their duties: Provided, that no salary so paid, calculated on per diem basis, shall exceed the per diem allowed the president of the board. (Ib., sec. 3.)

Sec. 538. Same—powers of board.—Said board of trustees shall have power to pass all necessary rules and regulations for the proper management and conduct of the business of said board of trustees, and of said corporation, and for the carrying into effect the objects for which such sanitary district is formed. (Ib., p. 65, sec. 4.)

Sec. 539. Means to carry act into effect.—To provide means to carry into effect the objects for which such sanitary district is formed, the lawful authorities in the city, and the county court in counties, in which sanitary districts may wholly or in part be situated, shall levy and assess upon all the lands lying within such sanitary district, exclusive of streets, roads and alleys duly opened to public use, a uniform special drainage tax, to be fixed by requisition and certified by ordinance of the board of trustees of such sanitary district. And the mayor and assembly of said city are hereby authorized and required to levy such special tax, in addition to the amount they may be authorized to levy for general municipal purposes by the charter of said city. And the county court or courts is hereby authorized and required to levy such special tax, in addition to the amount it may be authorized to levy for general county purpose. The amount of such special tax in any year shall not exceed one-half of one per cent on the assessed and equalized valuation of such lands for that year. No lands, other than streets, roads and alleys shall be exempt from said special tax, and if not valued and assessed for other purposes, shall be valued and assessed for this. Such special tax shall be collected and enforced by the same officers and in the same manner as provided for state and county taxes. The amounts collected shall be paid into the treasury of the city and of the county or counties in which the collections are made, and be credited to a special fund, called "The drainage fund of the sanitary district of _____," and shall be used for no other purpose than for the payment of vouchers, drawn under the authority vested in the board of trustees for the sanitary district, as hereinafter specified.

Sec. 539a. Vouchers.—The board of trustees of sanitary districts shall have the power to issue vouchers payable by the treasurer of the city or of the county in which such sanitary district is wholly or in part situated, out of any funds in such treasurer's hands to the credit of the special fund of the sanitary district for the following named purposes, to wit: For the preliminary expenses incurred in organizing the district; for salaries and current expenses of the board, and salaries of its employees; for making surveys, plans and superintendence of work; for the payment of judgments for damages and costs, or the agreed price for right of way and easements; for payment of principal and interest of lawfully incurred indebtedness, and for work done or materials furnished for the construction or maintenance of channels, drains or sewers. (Ib., sec. 5.)

Sec. 540. Board to make surveys and define areas.—It shall be the duty of the board of trustees to make the necessary surveys, and to map out and define the

several natural drainage areas in the district, and to lay out a general plan for the drainage thereof; besides the main outlet or outlets, the plan shall embrace branches or sub-mains, necessary for a complete system of principal drains for the entire district. Branch or sub-mains to be paid for out of the general revenue of the district, shall not be extended beyond the point at which they will receive the drainage of an area of less than 800 acres. Outlets and the larger branches or sub-mains may be open channels, whose general course shall be followed by intercepting sewers, to collect and convey sewage or polluted drainage. The board shall also subdivide the district into convenient sub-districts, not larger than 1,000 acres in extent, within which the sewers or drains necessary to complete the drainage shall be constructed at the expense of the sub-district, as hereinafter provided. When such plans are complete for a definite district or sub-district, the board of trustees shall adopt them by ordinance, and such ordinance when published in one or more newspapers having general circulation in the sanitary district, shall be binding upon all persons, corporations and municipalities; and nothing shall be done affecting the drainage of any part of the district (other than ordinary farm or agricultural drains) by any person, corporation or municipality inconsistent with such plans or without the permission of said board of trustees. (Ib., sec. 7.)

Sec. 541. Condemnation of private property.—If, in the judgment of the board of trustees, it is necessary to acquire rights of way or easements for drainage purposes, through private property, it shall, by ordinance duly certified, call upon the authority of the city or county having the right to cause the condemnation of private property for public use, to procure such rights of way or easement by due process of law; or said board may obtain the same by purchase, gift or otherwise. All costs of proceedings and damages allowed shall be paid out of the special drainage fund in the treasury of the city or county in which the property taken is situated. The board of trustees of such drainage district, if it be necessary to cross, follow or traverse public streets, roads or alleys, or grounds held or used as public parks or places, shall have the right to do so upon the following conditions: The board of trustees shall file with the county court or mayor of the city having immediate jurisdiction over the street, road, alley or public park or place, a map showing the location and extent of the proposed occupancy for drainage purposes and a plan of the proposed works, which plan shall be so made and arranged as not to interfere with the ordinary and lawful use of said street, road, alley, public park or place, except during a reasonable time for the construction of the necessary works—said map and plan to be subject to approval by the county court or mayor of the city. The entire expense of the works and restoration of the ground occupied to its former condition, as near as may be, shall be borne by the sanitary district. (Ib., p. 66, sec. 8.)

Sec. 542. Bonds.—If, in the judgment of the board of trustees, the construction of the whole or any part of the general plan adopted is an urgent sanitary measure, and the means provided under section 4 of this act are insufficient to do the work as rapidly as may, in the judgment of said board, be necessary, the said board may apply to the court or courts having jurisdiction for an order of said court or courts, authorizing the issue of bonds for the purpose of anticipating the revenue of the sanitary district. The application shall state the purpose, amount and all conditions of the proposed issue of bonds. Said court shall have the power, in its discretion, to authorize the issue of such bonds, provided that the total amount outstanding shall, at no time, exceed the anticipated revenue of the sanitary district for the ten years next ensuing, computed on the basis of a levy of one-half of one per cent annually, upon the valuation for the year in which the authority for issue is given. Bonds issued under the authority of this act shall not run for a term exceeding twenty years, nor bear a higher rate of interest than six per cent per annum. When bonds are so issued and sold, the special fund before described, arising from tax collections, shall each year first be charged with the interest falling due that year, and with a proportion of the total amount of outstanding bonds, ascertained by dividing said total amount by the number of years the bonds have to run, and the amount so ascertained shall be set apart as a sinking fund to provide for the payment of interest, and for the payment or purchase of said bonds. The bonds issued under the authority of this act shall have a copy of this section and of the order of the court printed on their back, and shall be registered in the office of the secretary of state of the state of Missouri. The sinking fund above provided for shall each year be paid into the treasury of the state, and payments therefrom for interest and principal shall be made as provided in the case of bonds payable by the state of Missouri. The proceeds of bonds issued under the authority of this act shall be deposited with the treasurer of the city, and shall be a special fund, and be used for no purpose except the payment of vouchers for work done or materials furnished for the construction of channels, drains

and sewers. In case of appeal from the action of the court applied to as above provided, the appeal shall be heard and determined as a privileged case by the supreme court of the state of Missouri. (Ib., sec. 9.)

Sec. 543. Contracts.—The board of trustees for the sanitary district shall let contracts for all work to be done, excepting in case of repairs or emergencies requiring prompt attention, in the construction of channels, drains or sewers, under the authority of this act, the expense of which will exceed five hundred dollars, to the lowest responsible bidder therefor, upon not less than twenty days' notice of said letting, giving by publication in a newspaper of general circulation in the district, and in the discretion of the said board, in one or more newspapers of general circulation among contractors. The said board shall have the power and authority to reject any and all bids, and readvertise the work. The board of trustees shall also have the power to enter into agreements with persons, firms or corporations of known standing and competence for the execution and preparation of the surveys, maps and plans needed and required by the said board, and also for the laying out and superintendence of work to be constructed under the authority of this act; but no single agreement so made shall cover more than one piece or class of work. (Ib., sec. 10.)

Sec. 544. City authorities to construct sewers and drains, when.—The lawful authorities of any city or incorporated town or village, the county court of any county, individual owners or associations of such owners, shall have the right to construct sewers or drains in sanitary districts, organized under this act, at their own expense, but plans for such sewers and drains must conform to the plans adopted by the board of trustees, and all such plans must be submitted to and be approved by said board of trustees before any construction work is done thereon.

Sec. 545. Special taxes—payment.—When sewers are needed for the complete or sanitary drainage of a sub-district, being a part of a sanitary district not exceeding 1,000 acres in area, such sewers may be built by the board of trustees created under this act, if parts of the sub-district so to be drained be situated in different and independent jurisdiction; but, if such sub-district lie wholly within the limits of a single jurisdiction, then the powers conferred by this section shall be vested in and exercised by that jurisdiction. The board of trustees herein created, in the case described above, otherwise the city, incorporated town or village, or county court, having jurisdiction over the sub-district, shall have the power, when petitioned so to do by a majority of the resident tax-payers within the sub-district described in the petition, or upon a recommendation of a lawfully organized board of health, that the complete or sanitary drainage of a certain described area in a sub-district is needed as a sanitary measure, to provide for the construction of a complete system of sewers in such sub-district or convenient part thereof, and to assess the cost of such sewers upon the property drained thereby as a special tax; said special tax shall be uniform in the proportion that the area of each lot or parcel of ground, taken to a distance not exceeding 200 feet from the center line of the sewer, bears to the whole area drained by the sewers for which assessment is made. Special tax-bills shall be issued against each lot or parcel of ground drained or drainable by the sewer, or the portion of such lot or parcel lying within 200 feet of the center line of such sewer or sewers. Such special tax-bills shall be a lien upon the property charged therewith, as is provided for other special tax-bills authorized by the statutes of the state of Missouri; but if any owner of any lot or parcel of ground assessable hereunder shall, within twenty days after the passage of the ordinance or order for the construction of such sewers, make written request that he be allowed to pay the special tax thereon by installments, said special tax-bills against the property described in his request shall be divided, and portions made payable at certain dates and in amounts named; but the time of payment shall not extend beyond five years, nor the number of installments to more than five. Each installment shall bear interest at the rate of 6 per cent per annum from date of issue of the special tax-bill until due, and if not paid when due the rate of interest shall thereafter be 10 per cent per annum. If any installment remain unpaid for six months after it become due, then all unpaid installments shall be deemed to have become due with it, and the lien upon the property may be enforced for the whole amount unpaid together with interest thereon. Said special tax-bills shall be issued by the board of trustees and authenticated by the seal of said board or by the authorities of the city, in the manner other special tax-bills are issued by said city. If the sewers be built by the board of trustees, or a county court, the cost of engineering and superintendence shall be added to the cost of construction, in ascertaining the amount to be assessed against the property drained; but the cost of engineering and superintendence shall not exceed 10 per cent of the cost of construction, as finally estimated. If the sewers be built by the city, incorporated town or village, the cost of engineering and superintendence shall be borne by such city, incorporated town or village. The special tax-bills shall be issued to the contractors, or to persons rendering service or furnishing materials in a sub-district, under contract or agreement with the board

of trustees, or the competent authorities of the city, incorporated town or village, or county court, in full settlement for all sums that may be due, arising from such contracts or agreements; but no claims shall be entertained or allowed for payment in any other way than by the issue of and delivery of such special tax-bills. (Ib., p. 67, sec. 12.)

Sec. 546. Acceptance of private sewers already constructed.—The board of trustees created by this act, or the authorities of the city, town or village, or the county court, shall have the power to accept from private persons or corporations any sewers or drains constructed by them before or after the organization of the sanitary district, and to allow an equitable credit for such sewers or drains; or to acquire the same by process of law if needed: Provided, that the sewers or drains accepted, in plans, materials and construction, conform to the plans adopted and approved by the board for similar work done by said board; and provided, in the case of acceptance, that the amount allowed shall not exceed the amount assessable as a special tax against the property drained thereby, under the preceding section of this act. The title to or ownership of such sewers or drains shall be considered as attaching to all lands actually drained thereby in proportion to the areas of such lands, and the credit shall be allowed to the owners of record. (Ib., sec. 13.)

Sec. 547. Dissolution of board.—When the object for which a sanitary district was organized is accomplished by the completion of the main channel, drains or sewers, contemplated and adopted in the general plan, and when the areas of divided jurisdiction are drained or otherwise provided for (which facts the circuit court for the district in which the whole or the major part of the territory embraced in the district shall determine), then the board of trustees of such sanitary district shall cease to exist at the expiration of sixty days after the date of the decree of court expressing such determination. But provision shall be made for the fulfillment of all contracts and obligations which have been made by said board of trustees, the responsibility therefor being assumed by the city or county directly interested. Provision shall also be made for the prompt payment of all outstanding bonds of the sanitary district. (Ib., p. 69, sec. 14.)

Sec. 548. Certain officers to assist in making act effective.—It is hereby made the duty of the secretary of state, the mayors of cities, the circuit court, the county court of counties, and all assessors, sheriffs, collectors, treasurers and other officials in the state of Missouri, to do and perform all the acts and to render all the services necessary to carry out the purposes of this act, and for such services they shall receive the fees, or other compensation allowed by law for similar services rendered to cities, counties, or the state. (Ib., sec. 15.)

Sec. 549. How this act construed.—Nothing in this act contained shall be so construed as to constitute a contract or grant between the state of Missouri and any sanitary district formed under its provisions, or to prevent, debar or deprive the state of Missouri from, at any time in the future, altering, amending or repealing this act, or imposing any conditions, restrictions or requirements other, different or additional to any herein contained, upon any sanitary district formed hereunder. (Ib., sec. 16.)

CHAPTER TWENTY-NINE.

SHERIFF AND CORONER.*

Sec. 550. Duty of sheriff of city of St. Louis.—The sheriff of the city of St. Louis shall do and perform all acts and duties prescribed by general and special laws applicable to the sheriff of St. Louis county, which were in force at the time of the adoption of the scheme and charter, except in such cases as are inconsistent with some provisions of said scheme and charter. (Laws 1877, p. 188, sec. 1. R. S. 1899, p. 2548.)

Sec. 551. Bond, by whom approved.—The official bond of said sheriff shall be in such sum as is prescribed by law, and shall be approved by the St. Louis circuit court. (Laws 1877, p. 188, sec. 2. R. S. 1899, p. 2548.)

Sec. 552. To execute process of what courts.—All process of the circuit court in said city of St. Louis, the St. Louis criminal court, the St. Louis court of criminal correction, and the probate court of the city of St. Louis, shall be directed to and executed by the sheriff of said city. (Laws 1879, p. 40, sec. 1. R. S., p. 2548—*h.*)

*See Scheme, secs. 3, 5, 18, 30, 33; Charter Art. IV, sec. 14.

(*h*) Sheriff disqualified from summoning jurors in criminal case where he is a witness for the prosecution, and this is true of a cause in the St. Louis Court of Criminal Correction: *State v. Powers*, 136 Mo. 194.

The above act, 1879, p. 40 (secs. 552 to 561 hereof) is constitutional: *Kenefick vs. St. Louis*, 127 Mo. 1.

Sec. 553. **To attend upon what courts.**—It shall be the duty of the sheriff of the city of St. Louis to attend said courts, and do and perform all acts heretofore enjoined upon and required by law to be performed by the marshal of St. Louis county, and now devolved upon the marshal of the city of St. Louis. (Laws 1879, p. 40, sec. 2. R. S. 1899, p. 2548.)

Sec. 554. **Fees of sheriff.**—The sheriff of the city of St. Louis, for his services, shall be allowed the same fees in the St. Louis criminal court, the St. Louis court of criminal correction and the probate court of the city of St. Louis, as were heretofore allowed the marshal of St. Louis county for like services, to be taxed and collected as other costs in criminal and civil cases. (Laws 1879, p. 40, sec. 3. R. S. 1899, p. 2548—i.)

Sec. 555. **General duties of sheriff and coroner.**—All general laws relating and applicable to the sheriffs and coroners of the several counties of this state shall apply to the same officers in the city of St. Louis, and all special laws applicable to the sheriff, marshal or coroner of St. Louis county, as organized before the separation of the city and county of St. Louis, by the adoption of the scheme of separation, shall still apply to the sheriff or coroner in the city of St. Louis, and all acts and parts of acts providing for any legal process to be directed by any sheriff or coroner of any county or the marshal of St. Louis county, shall be so construed as to mean the sheriff or coroner of the city of St. Louis, as if such officer were specifically named in such act. (Laws 1879, p. 39, sec. 1. R. S. 1899, p. 2548.)

Sec. 556. **Sheriff to keep account of all fees received.**—The sheriff of the city of St. Louis shall keep full, complete, itemized accounts of all fees, commissions and emoluments accruing to him by virtue of his office, and of all expenses, including the pay of his deputies, incurred by him in the discharge of the duties of his office. (Laws 1879, p. 98, sec. 1. R. S. 1899, p. 2548—j.)

Sec. 557. **Shall file statement with circuit clerk.**—Said sheriff shall, within ten days next after the end of each six months of his term of office, make and file in the office of the clerk of the circuit court of St. Louis city, an itemized statement, verified by oath, of all such fees, commissions, emoluments and expenses of his office for such period of six months; and such clerk shall note the filing of such statement upon the docket of the court in general term; and the court in general term shall, without delay, proceed to examine and settle with such sheriff his accounts of the fees, commissions, emoluments and expenses of his office, and, in such settlement, shall carefully inquire into and charge such sheriff with all the fees, commissions and emoluments of his office for such period, and, in like manner, inquire into the expenses of such office for such period, and disallow all such expenses as the court may find have been improperly incurred, and in such examination the court may compel the attendance of and examine witnesses, and compel the production of books and papers, as occasion may require; and such settlements, when made, shall be conclusive of the amounts of such fees, commissions and emoluments, and of the expenses of such office. (Laws 1879, p. 98, sec. 2. R. S. 1899, p. 2549—k.)

Sec. 558. **Amount of fees retained—remainder to be paid to treasurer.**—Such sheriff, out of the fees, compensation and emoluments of his office, may for each year of his term of office, receive and retain the sum of ten thousand dollars, over and above all such expenses as shall be allowed to him in his settlements above provided for; and all fees, compensation and emoluments which shall be collected by any sheriff or by his successor for him, in excess of the amount which

(i) The Sheriff is entitled to \$1.25 per day under the statute for safe-keeping a person "undergoing an examination preparatory to his commitment," where held for more than a day, nor does he lose such fee where such person is kept in the calaboose furnished by the city authorities, guarded by the city jailer and police: *State ex rel. vs. Clark*, 170 Mo. 67. Although the Sheriff of St. Louis is required to attend the criminal courts and Court of Criminal Correction in St. Louis, yet as no statute provides for a fee, and as statutes allowing fees are strictly construed, he is not entitled to any compensation therefor: *State ex rel. vs. Brown*, 146 Mo. 401.

(j) The sheriff of St. Louis must render a separate account of receipts and expenditures for each year, and the fees of a particular year are those earned for that year, no matter when collected. *Harrington vs. St. Louis*, 107 Mo. 327. Under the constitution and act of 1879, the sheriff of the city of St. Louis is not entitled to more than \$10,000 in the aggregate out of his entire official earnings of any one year. *State ex rel. v. Pohlman*, 60 Mo. App. 444; *Kenefick v. St. Louis*, 127 Mo. 1. If such earnings during any year are collected in part by the sheriff himself and in part by his successor, and his own collections do not exhaust such limit of \$10,000, he is entitled to recover enough of such collections by his successors to make good the deficit: *State ex rel. v. Pohlman*, 60 Mo. App. 444.

(k) The auditor is without right of authority to inquire into the correctness of a settlement of the sheriff's account by the circuit court, which is final against the city; his sole duty is to issue his warrant for the amount shown: *State ex rel. vs. Brown*, 72 Mo. App. 651. See also as to right of Ct. Crim. Cor. to provide for proper expenditures: *State ex rel. vs. Smith*, 5 Mo. App. 427.

such sheriff may so receive and retain, shall be paid to the treasurer of the city of St. Louis, for the use of said city. (Laws 1879, p. 98, sec. 3. R. S. 1899, p. 2549—*l.*)

Sec. 559. **Fees, how apportioned in certain cases.**—If such sheriff fail to hold his office during the whole of any year, he shall be entitled to retain therefor, such part of the sum of ten thousand dollars as shall bear to such sum the same proportion as the part of such year during which he shall hold such office shall bear to the entire year. (Laws 1879, p. 98, sec. 4. R. S. 1899, p. 2549.)

Sec. 560. **Proceedings upon failure to file statement.**—If any sheriff fail to make and file such statement with said clerk, as above required, the said court, in general term, shall issue a citation to such sheriff requiring him to make and file such statement on or before a day to be named in such citation; such citation may be served upon such sheriff in such manner as the court shall order; and if such sheriff, after service of such citation, fail to make and file such statement as required by the court, the court may, by attachment, compel the attendance of such sheriff, and if necessary, commit him to jail until he make and file such statement, and in addition thereto may fine him for his failure to make and file such statement according to the provisions of section eight of this article, in a sum not exceeding ten thousand dollars. (Laws 1879, p. 98, sec. 5. R. S. 1899, p. 2549.)

Sec. 561. **The city may sue and recover, in what cases.**—The city of St. Louis may sue for and recover all sums of money payable into the treasury thereof by any sheriff, and the sheriff and his sureties on his official bond shall be liable therefor. (Laws 1879, p. 98, sec. 6. R. S. 1899, p. 2549.)

Sec. 562. **Sales of real estate, how conducted.**—All sales of real estate in the city of St. Louis made by the sheriff of said city, shall be made in the manner now provided by law, and as hereafter made by the sheriff of the county of St. Louis. (Laws 1877, p. 191, sec. 1. R. S. 1899, p. 2549.)

Sec. 563. **Effect of sales.**—All such sales so made by the sheriff of said city shall be valid and binding, and shall be effectual to pass the title of the property sold to the purchaser thereof. (Laws 1877, p. 191, sec. 2. R. S. 1899, p. 2550.)

Sec. 564. **Sheriff to execute deed.**—For the property so sold by him, the said sheriff of said city shall execute and deliver to the purchaser thereof good and sufficient deeds of conveyance, which he shall first acknowledge before the St. Louis circuit court; and all such deeds, when so executed, acknowledged and recorded, shall have same force and effect as are given by law to deeds made by other sheriffs in this state. (Laws 1877, p. 191, sec. 3. R. S. 1899, p. 2550.)

Sec. 565. **Powers and duties of coroner, appointment, deputies.**—The coroner of the city of St. Louis shall do and perform all acts within the limits of the said city of St. Louis required by law of coroners of the different counties of this state, and he is hereby authorized and empowered to employ two deputies, who shall take the same oath, possess the powers and perform the same duties as their principal, and for whose official conduct their principal shall be responsible. The appointments of such deputies shall be in writing, shall be filed with the mayor of said city of St. Louis, and may be revoked at the pleasure of their principal. (Laws 1893, p. 117. R. S. 1899, p. 2550.)

Sec. 566. **Fees and costs, how paid.**—The costs and expenses of any inquest, including the fees of the coroner, of jurors, witnesses, constables and others entitled to fees, for which the city is liable, shall be audited and paid as may be provided by the charter and ordinances of the city of St. Louis. (Laws 1877, p. 191, sec. 4. R. S. 1899, p. 2550.)

Sec. 567. **Powers and duties of mayor.**—The mayor of the city of St. Louis shall do and perform all acts required of the county court by chapter forty-one of the revised statutes of Missouri, entitled "Coroners and Inquests." (Laws 1877, p. 191, sec. 2. R. S. 1899, p. 2550.)

Sec. 568. **Duties generally—when entitled to counsel fees.**—Every sheriff shall quell and suppress assaults and batteries, riots, routs, affrays and insurrections; shall apprehend and commit to jail all felons and traitors, and execute all process directed to him by legal authority, including writs of replevin, attachments and final process issued by justices of the peace; and he shall attend upon all courts of record at every term, and in all cities which now have or shall hereafter have a population of three hundred thousand inhabitants or more, he may employ counsel to aid and advise him in the discharge of his duties, and to represent him in court, and may fix the compensation to be paid such counsel, not, however, to exceed the sum of two thousand dollars per annum. Provided, the whole compensation is paid out of the fees of his office of sheriff; and the court shall have power to audit and allow such compensation as other fees and expenses are allowed by law. (R. S. 1899, sec. 10046.)

(1) See *Kenefick vs. St. Louis*, *supra*; *State ex rel. vs. Pohlman*, *supra*.

CHARTER THIRTY.

SMOKE ABATEMENT.*

Section 569. **Emission of dense smoke into open air declared a public nuisance—penalties—penalties accumulative.**—The emission or discharge into the open air of dense smoke within the corporate limits of cities of this state which now have or may have hereafter a population of one hundred thousand inhabitants is hereby declared to be a public nuisance. The owners, lessees, occupants, managers or agents of any building, establishment or premises from which dense smoke is so emitted or discharged, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall pay a fine of not less than twenty-five dollars, nor more than one hundred dollars. And each and every day whereon such smoke shall be emitted or discharged shall constitute a separate offense: Provided, however, that in any suit or proceeding under this act, it shall be a good defense if the person charged with a violation thereof shall show to the satisfaction of the jury or court trying the facts, that there is no known practicable device, appliance, means or method by application of which to his building, establishment or premises the emission or discharge of the dense smoke complained of in that proceeding could have been prevented. (Laws 1901, pp. 73-74—*m.*)

Sec. 570. **Cities empowered to enforce act by ordinance.**—All cities to which the provisions of this act are applicable are hereby empowered to enact all necessary or desirable ordinances, not inconsistent with the provisions herein, nor the constitution, nor any general law of this state, in order to carry out the provisions of this act. (Ib.)

Sec. 571. **Inconsistent acts repealed.**—All acts or parts of acts inconsistent with this act, or any part hereof, are hereby repealed. (Ib.)

CHAPTER THIRTY-ONE.

STENOGRAPHERS.

ARTICLE I.

STENOGRAPHERS IN CITIES AND COUNTIES HAVING THREE HUNDRED AND FIFTY THOUSAND OR MORE INHABITANTS.

Section 572. **Authorizing judge of a division circuit court to appoint stenographer for his division.**—For the purpose of expediting the public business and preserving an accurate report of proceedings in the trial of causes without expensive delays, the judge of the circuit court, or when said court consists of more than one judge, then the judge of each division thereof, in all cities and counties in this state which now have and such as may hereafter have a population of three hundred and fifty thousand inhabitants or more, is authorized to appoint one official stenographer for such court or division. Such stenographer shall be an officer of such court, and shall file therein an affidavit to discharge faithfully and impartially the duties of such office, and shall also file therein a bond to the State of Missouri, in the sum of three thousand dollars with two sureties approved by said judge, conditioned for the faithful and impartial discharge of such duties, upon which any person injured by breach thereof may maintain an action as upon other official bonds. Such stenographer shall hold his office until removed by an order of such judge or by an order of such judge appointing a successor. (Laws 1901, p. 250, amending R. S. 1899, sec. 10105.)

Sec. 573. **Duties of stenographer.**—It shall be the duty of each official stenographer so appointed to attend the sessions of the court, or division to which he is assigned, according to the direction of the judge thereof, to take full stenographic notes of the oral evidence offered in every case tried in said court or division, and of other proceedings when directed by said judge to be so reported, together with all objections to the admissibility of testimony and the rulings of the court thereon, and all exceptions taken to such rulings; to preserve all official notes taken in said court for future use or reference, and to finally deposit the same with the records of said court, according to the directions of the judge thereof; and to furnish to any person a long-hand transcript of all or any required part of said evidence or oral proceedings upon the payment to him of the fees hereinafter provided. When not reporting in open court, it shall also be his duty to take such notes as may be requested by the judge in chambers, and to furnish the latter a transcript thereof when required. R. S. 1899, sec. 10106—*n.*)

*Ordinances in pursuance hereof, see Rev. Code, Chapter XVIII; Art. V, Secs. 1619-1631 inclusive, and notation of cases thereto.

(*m*) Indictment hereunder of one as "manager" is sufficient, without stating for whom the buildings were managed: State vs. Everman, 115 Mo. App. 660. The provisions of this law were fully sustained in State vs. Tower, 185 Mo. 79.

(*n*) The law prescribes the stenographer's duties; all else is extra-official: Padgitt vs. Moll, 159 Mo. 143, 155.

Sec. 574. Salary and fees.—Each official stenographer shall receive, as compensation for his services, the sum of eighteen hundred dollars per year, which shall be paid in installments of one hundred and fifty dollars at the end of each month of said year, by the treasurer of the city wherein the court of which he is stenographer is situated, upon presentation to such treasurer of vouchers duly approved and certified by the judge in whose division of court such stenographer is employed. Each stenographer shall also receive from any person ordering long-hand transcripts of his notes such fees for the same as may be from time to time established by orders of said court, or judges, as mentioned in section 10105 of this article, not exceeding, however, fifteen cents per folio of one hundred words, each four figures to be also counted as one word; and any judge of any court may, in his discretion, order a transcript of all or any part of the evidence or oral proceedings for his own use, and the stenographer's fees for making the same shall be taxed in the same manner as other costs in the case. (R. S. 1899, sec. 10107.)

Sec. 575. Fee to be taxed in each case.—In every case, except in suits by the state for the collection of delinquent taxes, now or hereafter pending in any circuit court or division thereof where an official stenographer is appointed, the clerk of said court shall tax up the sum of three dollars, to be collected as other costs, and thereupon to be paid by said clerk to the city treasurer, to apply to the payment of salary of such stenographers as above. (R. S. 1899, sec. 10108—o.)

Sec. 576. Deputies.—Each official stenographer may appoint one or more deputies, when necessary, to assist him in the discharge of his duties, by a written appointment, approved by said court and filed therein, and shall be answerable for the proper performance of the duties of such deputy; and the compensation of the latter shall be paid by such stenographer. (R. S. 1899, sec. 10109—p.)

Sec. 577. May exchange work.—The stenographers, or deputies, in the several divisions of said court may, with the approval of the judges thereof, interchange with each other or report for each other in any of the divisions of said court, and shall otherwise conform to such regulations as may be made by said court or the judges in their several divisions touching the performance of their duties. (R. S. 1899, sec. 10110.)

ARTICLE II.

STENOGRAPHERS IN COURTS HAVING JURISDICTION IN CASES OF FELONY IN CITIES OF OVER ONE HUNDRED THOUSAND INHABITANTS.

Section 578. Criminal courts to have stenographer—tenure of his term.—In cities having a population of over 100,000 inhabitants, courts having jurisdiction in cases of felony shall have a stenographic reporter, such reporter to be appointed by the court, to hold his office from month to month, during the pleasure of said court, or until removed for cause shown, as hereinafter provided. (R. S. 1899, sec. 10130.)

Sec. 579. Salary of stenographer.—The stenographer so appointed shall receive a monthly salary of one hundred and fifty dollars, payable at the end of each month by the treasurer of said city upon the presentation to said treasurer of vouchers duly approved and certified by the clerk of said court. (R. S. 1899, sec. 10131.)

Sec. 580. Shall take oath.—Such reporter, before entering upon the discharge of his duties, shall take an oath, before some competent person, to faithfully discharge the duties of said court. (R. S. 1899, sec. 10132.)

Sec. 581. Duty of stenographer.—Such reporter shall attend upon said court, as directed by the judge thereof, and shall take accurate shorthand notes of the evidence, proceedings had, instructions given by the court and arguments made, and all other pertinent matter, and shall also attend upon any examination of a criminal matter, when directed by the prosecuting officer, and shall furnish transcripts of his said notes, or any part thereof, in legible English, for the use of the state, when so directed by the judge of the court. (R. S. 1899, sec. 10133.)

Sec. 582. Disposition of stenographic notes.—All short-hand notes of examinations in criminal matters, other than regular trials thereof, shall be turned over at once by said reporter to the prosecuting officer of the court. But all other short-hand notes taken by said reporter shall be filed by him in the clerk's office of such court, and shall become part of the records of such court, and such reporter shall transcribe, in legible English, any of such notes, or any part thereof, whenever required by the clerk so to do; and such clerk shall make out certified copies of such transcript or long-hand notes for any person, upon payment of the legal fees allowed by law for copies of records and papers, except that whenever said reporter shall be required to take notes before the grand jury, he shall be

(o) This provision is sustained by the courts; but it does not apply to a garnishment case: *Bank vs. Glaser*, 40 Mo. App. 371.

(p) Deputies under analogous law, see *State ex rel. vs. Ford*, 41 Mo. App. 122.

sworn to secrecy, and all such notes so taken shall also be turned over by said reporter to the prosecuting officer of said court; and *provided*, that in cases of appeal and on motions for new trial, the transcript of the evidence shall be furnished to the defendant upon the order of the court without costs to said defendant when it shall appear to the satisfaction of the court that the defendant is unable to pay the cost of such transcript for the purpose of making such appeal; and provided, further, that the stenographer shall be allowed for making such transcript the sum of fifteen cents per folio of 100 words for each transcript so furnished; and when the court shall be satisfied that the defendant is unable to pay for making such transcript the same shall be taxed as costs in the case against the state or county, as may be proper. (R. S. 1899, sec. 10134, amended Acts 1907, p. 440; also 441—q.)

Sec. 583. **In case of absence of stenographer, proceedings.**—In case of the temporary absence of such reporter, from any cause, the court may appoint a skillful short-hand reporter in his place, who shall take the same oath, and for the time being shall perform the same duties and labors and receive the same compensation, *pro rata* as the regular reporter. (R. S. 1899, sec. 10135.)

Sec. 584. **Stenographer to be removed, when.**—If said reporter shall fail to perform, in whole or in part, faithfully, the duties, obligations and labors enjoined upon him in this article, he shall be at once removed by the court, upon any application of any responsible person showing good cause therefor by competent evidence, and if said reporter shall be guilty of any willful or corrupt misconduct or neglect in the discharge of any of the duties, obligations or labors required to be by him performed by any of the provisions of this article, he shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the city jail for a term of not exceeding one year. (R. S. 1899, sec. 10136.)

CHAPTER THIRTY-TWO.

STREET GRADES, ESTABLISHMENT AND CHANGE OF.*

Section 585. **Authorized to establish and change grades—preliminary proceedings necessary—remonstrance—when filed—in cases where charter requires the recommendations of the board of public improvements.**—Every city now having or which may at any time hereafter have a population of three hundred thousand inhabitants or over, shall have at all times the power to establish the grade and change the grade already established, of any street, alley, avenue, public highway or public place, or any part thereof, as often as it may be deemed best for the public interest, and to cause the same or any part thereof to be graded to the established grade or to any change thereof: Provided, however, that when a change is proposed to be made in the grade of any street, alley, avenue, public highway or public place, or any part thereof, which has once been established, the two houses of legislation of such city shall by resolution declare the work of improvement to be necessary, and cause such resolution, or the substance thereof, to be published in the newspaper doing the city printing, for ten days (Sundays included); and unless the resident owners of the city who shall own the majority in front feet of all the lands belonging to such residents fronting on the street, alley, avenue, public highway, public place or part thereof to be improved, shall, within thirty days after the first day of the publication of such resolution, file

(g) It is for the Judge of the St. Louis Criminal Court to determine whether the official stenographer shall attend, and his action is not subject to review: *State vs. Pagels*, 92, Mo. 300. A defendant was entitled to have a transcript of the evidence furnished to him without cost: *State ex rel. Scales v. Zachritz*, 145 Mo. 269; *State ex rel. Martin v. Wofferd*, 121 Mo. 61. *Mandamus* will lie to compel the judge to order such transcript: *State ex rel. Scales v. Zachritz*, 145 Mo. 269; *State ex rel. Martin v. Wofferd*, 121 Mo. 61.

*Charter Powers: See Charter Art. III, Sec. 26, clause 2; Art. VI, Secs. 1-27; Rules for damages changing grade of streets see Chart. Art. VI, Sec. 19 and cases there cited in notes. Act of 1891, p. 47 (R. S. 1899, Secs. 6234-6236) concerning the establishment and regulation of boulevards, etc., was held unconstitutional in *St. Louis vs. Dorr*, 145 Mo. 446.

The act of March 14, 1893 (R. S. 1899, sec. 6237), requiring the whole cost of improvement of streets, etc., to be charged against adjoining property and said cost to be "levied, collected and paid" as "now provided by law or charter," etc., was held void as special legislation: *Murname vs. St. Louis*, 123 Mo. 479.

The law of 1899 is new in that revision. Formerly proceedings for changing grades and assessing damages therefor were governed by R. S. 1899, secs. 6109-6114: It was held that in such proceeding the commissioner's report could not be approved in part as to some parties and set aside in part as to others, so as to constitute a final judgment as to some and not the others, and no appeal would lie under such conditions, as there can be but one final judgment: *St. Louis vs. Nelson*, 169 Mo. 461.

The city can, (so under the former statutes) institute proceedings to assess damages and benefits for street grade changes without the consent of the owners of the land affected: *St. Louis vs. Lang*, 131 Mo. 412, 421.

with the city register their remonstrance against the proposed change, then the two houses of legislation of such city shall have power by ordinance to cause the proposed change to be made: Provided, further, however, that when the charter of any such city shall require that such resolution or ordinance shall, before being passed, be recommended by a board of public improvements, or other authority of such city, then the same shall, before being passed, be recommended as therein required. If the remonstrance of the resident property owners above mentioned shall be filed with the city register, as herein provided, the power of the two houses of legislation to make the proposed change in the grade of such street, alley, avenue, public highway or public place, or any part thereof, shall cease until a sufficient number of the persons so remonstrating or their grantees shall, in writing, withdraw their names or the property represented by them from such remonstrance, so that said remonstrance shall cease to represent a majority of the resident owners as above provided, when the two houses of legislation may again proceed in the manner above mentioned. (Laws 1899, p. 61, sec. 1. R. S. 1899, sec. 6238.)

Sec. 586. Remuneration or damages—property benefited.—When the property owners to be disturbed or damaged by the grading, regrading, or other change of any street, alley, avenue, public highway, public place, or any part thereof, are lawfully entitled to remuneration or damages under the constitution of the state of Missouri, and shall not have waived all right or claim thereto, the ordinance which shall order the grading or regrading of any such street, alley, avenue, public highway or public place, or any part thereof, shall also prescribe and determine the limits within which private property is benefited by the proposed grading or regrading. (Ib., p. 62, sec. 2. R. S. 1899, sec. 6239.)

Sec. 587. Street commissioner to furnish maps of property benefited.—Within thirty days after the taking effect of the ordinance, the street commissioner shall furnish the mayor a map or plat containing a correct description of the several lots or parcels of private property in the benefit limits described in said ordinance. (Ib., p. 62, sec. 3. R. S., sec. 6240.)

Sec. 588. Proceedings determined by circuit court or judge in vacation.—The proceedings hereinafter provided for shall be heard and determined by the circuit court of the county in which the city is located, or if it is not in session, by a judge thereof; and when they are had in vacation the same record thereof shall be made and kept as if such proceedings had been had in term time. (Ib., sec. 4. R. S. 1899, sec. 6241.)

Sec. 589. How proceedings may be begun and determined in circuit court to ascertain damages or benefits derived from proposed grading or regrading.—When the mayor shall file or cause to be filed a certified copy of said ordinance in the circuit court, or with the clerk thereof, such court or judge thereof shall fix a day and place for assessing the damages and benefits derived from the proposed grading or regrading, and shall make an order reciting the title of the ordinance, and stating the general object and nature of the ordinance, and also stating the limits within which private property is benefited by the proposed grading or regrading as determined and prescribed by the ordinance, and said order shall be directed to all persons to whom it may concern, without naming them, notifying them of the day and place fixed for the ascertaining of damages and benefits to arise from said grading or regrading, and that unless they file their claim for damages as herein required they shall thereafter be precluded from making any claim on account thereof. A copy of such order shall be published in each issue of a newspaper at the time doing the city printing for ten days (Sundays included), the last insertion to be not more than one week prior to the day so fixed for said hearing. The court or judge thereof may, at the time of making said order, further order that all or any portion of the residents of the city owning or having an interest in real estate fronting on the street, alley, avenue, public highway, or public place, or any part thereof, proposed to be graded or regraded, or in the real estate within the limits of the district prescribed by the ordinance within which private property is deemed benefited by the proposed grading or regrading, be served with a copy of said order, either by delivering to each of such owners a copy of the order, or leaving such copy at their usual place of abode with some member of their respective families over the age of fifteen years, and in the case of resident corporations by service of said order in like manner as with summons in ordinary civil causes. If service of such notice cannot be made on any or all such parties as above described, within the city limits, when personal service is ordered by said court or judge, the returns on such notice shall so state. Thereupon an alias order specifying a different date may be made by said court, or judge thereof in vacation, if deemed advisable, notifying such unserved parties of the facts, as in case of original notice above provided. Said cause may be continued or postponed from time to time. It shall not be required in any case to bring in any person other than the owners of the property, or cause those interested therein, who were such at the time of the

taking effect of the ordinance providing for the improvement, and the parties claiming or holding through or under such owners or parties interested, or any of them, shall be bound by the proceedings as fully as if they were brought in; but any person having any interest in the real estate liable to be affected by said proceedings may, upon application and entering his appearance, be made a party thereto; but no notice of said proceedings shall be necessary to the validity thereof, except the publication of the order, as herein provided. Notice so given by publication shall be sufficient to authorize the court, or judge thereof in vacation, to hear and determine the cause, and to make any finding or order therein as though all the parties had been sued by their proper names, and had been personally served. Affidavit by the publisher, manager, or any person connected with the newspaper in which such order was published, accompanied with a copy of the notice, shall be evidence of the fact of publication of the notice or order as stated therein. On or before the day next before the day set for the hearing, or before the day to which said cause may have been postponed or continued, as designated in either of aforesaid notices, any person claiming damages by reason of the aforesaid grading or regrading, may file or cause to be filed with the clerk of such court a description of the property claimed to be damaged and the interest of the claimant therein. The clerk shall note the filing of every such claim as a part of the record of said cause. If no claim be filed before the day set for the hearing of said cause, or the day to which said cause has been postponed or continued, as above provided, the court, or judge in vacation, shall make an order finding that no such claim has been filed, and thereupon the grading or regrading may be done, and no claim for damages therefor shall thereafter be made or considered. The service of any notice or process required by this act or ordered by the court, or judge thereof in vacation, may be made by a policeman of the city, or by any constable or other officer authorized to serve or return notices, and any return of service by a policeman, constable or other officer shall be evidence of the fact therein stated. (Ib., p. 62, sec. 5. R. S. 1899, sec. 6242.)

Sec. 590. **Circuit court to retain jurisdiction.**—In case any person or persons shall file a claim or claims for damages as mentioned in the preceding section, the circuit court, or judge thereof in vacation, shall retain jurisdiction of the party and subject-matter, and proceed to cause the damages or compensation to be ascertained in the manner provided by the charter of such cities, or any law affecting the same. (Ib., p. 64, sec. 6. R. S. 1899, sec. 6243.)

CHAPTER THIRTY-THREE.

STREET RAILROADS.*

Sec. 591. **Street-car gates, cities of 300,000 may regulate.**—Any city having a population of three hundred thousand or more shall have the exclusive right to regulate the use of gates on street cars operated in said city, and shall have the exclusive right to regulate passengers in getting on or off said street cars. (R. S. 1899, sec. 6250.)

Sec. 592. **Assembly no power to increase rates of fare.**—The city council [municipal assembly] of St. Louis shall have no power to increase the rates of fare on said roads, nor shall they have the right to divide or separate the lines of said roads in such manner as will increase the fare. (Laws 1865, p. 303, sec. 5.)

Sec. 593. **Single track road may lay double track.**—Any company now using a single track road, with turn-outs, upon any street or part of street, may change the same to a double track at any time; *provided*, they shall first obtain the consent, in writing, of the owners of a majority in interest of the property fronting on the street or part of street desired to be so changed. But this provision shall not apply to that part of Olive street between Fourth and Twelfth streets, unless the majority in interest of the street give their written consent that a double track may be constructed on said part of Olive street. (Laws 1859-1860, p. 517, sec. 4.)

Sec. 594. **Other power than horse power may be used.**—Every street railroad

*See Charter Provisions Art. X; Art. III, Sec. 26, clauses 5 and 11; and see notations thereto.

For ordinances concerning same see Rev. Code, secs. 1863-1903, and see notes to Rev. Code, Chap. 23, Art. VI; see as to licensing, R. C. sec. 2257 *etc seq.*

It is to be noted that in the Municipal Code, pages 167-168, (secs. 487-493) a number of statutes are referred to as applicable to the City of St. Louis (R. S. 1899, Secs. 5438-5444); but an examination shows that these statutes apply only to "cities of the first class," which, in law, does not include the City of St. Louis, which is organized under a special Constitutional provision, and has its own special charter thereunder. These are omitted here.

Most of the other provisions herein referred to have become obsolete, or are displaced by constitutional provisions and charter provisions enacted thereunder; a number of statutes here given do not apply specially to St. Louis, and are general, but as a reference thereto may be of some value, most of them are retained as heretofore in the Mun. Code, though not strictly appropriate to this revision.

company in any city of this state, which by its charter or articles of association is or may be only authorized to use horse power for its operation, is hereby empowered to also use such other motive power for that purpose as it has been or may be permitted by the ordinances of such city. (Laws 1887, p. 108, R. S. 1899, sec. 1355.)

Sec. 595. Time table to be posted in cars.—In order to insure regularity in the running of the cars of the several street railways in the city of St. Louis, each of said railway companies shall keep a time table conspicuously posted in each of its own cars, showing the time of starting each of its cars from each terminus of its road or route. (Laws 1868, p. 297.)

Sec. 596. Tickets to be sold.—The street railroad companies in the city of St. Louis shall keep on hand for sale and shall sell to any person passenger tickets, in packages of five for twenty-five cents, and in packages of twenty for one dollar, and also tickets for children under twelve (12) years old in packages of ten for twenty-five cents, and in packages of forty for one dollar; such tickets shall be kept for sale by the conductor of each car, and also at the offices of said companies during business hours. The holder of any ticket thus issued shall be entitled for the same to one transportation over any one of the different lines of street railroads now in operation or hereafter established in the city of St. Louis. (Laws 1869, p. 207.)

Sec. 597. Tickets to be redeemed and exchanged.—The street railroad companies of St. Louis shall be bound to exchange with and redeem from each other the tickets issued by them respectively, and said street railroad company shall have the right to charge and collect a fare of seven cents from each passenger transported by them and not presenting a ticket as herein provided. The annual tax levied or assessed for state, county or city purposes upon street railway companies in the state of Missouri, shall be assessed upon the value of the property owned by each of said companies in the same manner and to the same extent as assessments are made on the property of individuals. (Laws 1869, p. 207.)

Sec. 598. License to be paid.—In addition to the annual tax herein provided, each of said railway companies shall pay a license to the city of St. Louis to be fixed by ordinance of said city, not exceeding twenty-five dollars per annum for each car run by said companies respectively, and the taxes and license payable under the provisions of this act shall be in lieu of all taxes, burdens and expenditures and repairs of streets outside of their track required of such companies by former laws and ordinances. (Laws 1869, p. 207.)

Sec. 599. Passengers forbidden to get on or off front platform while car in motion.—No passenger shall be permitted to get on or off any car by the front platform while the car is in motion, and each car shall be furnished with such adjustable gate or guard as shall effectively prevent it. (Laws 1865-66, p. 105.)

Sec. 600. Fine imposed for not selling tickets.—In case any railroad company, or any conductor thereof, shall neglect or refuse to sell such tickets to any person applying therefor as provided in this act, such company or conductor shall not be permitted to collect any fare whatever from such passenger, and the company shall, on conviction of such neglect or refusal, be fined in a sum not exceeding fifty dollars for each offense, one-half of which is to go to the informer. (Laws 1869, p. 207.)

Sec. 601. Franchises confirmed.—The St. Louis Railroad Company, the Missouri Railroad Company, the People's Railway Company, and the Citizens' Railway Company, as heretofore organized under the "Act to authorize the formation of railroad associations, and to regulate the same," approved December 13, 1855, are hereby ratified and confirmed in their respective rights under said law; and the roads now built or commenced, and the gauge of track established by said companies, are sanctioned, and said gauge of four feet ten inches is hereby recognized as the legal gauge of all other street railroads that may be built in the city and county of St. Louis; said companies shall conform to and be governed by said law concerning railroad associations, except as follows: *first*, said companies shall not be required to carry freight; *second*, the report made to the city comptroller shall be in lieu of the annual report required to be made to the secretary of state by the law under which said company was organized. (Laws 1859-1860, p. 516.)

Sec. 602. Limitation of rights.—The rights confirmed to said companies shall not extend to or authorize the building by them of any road or roads on Clark avenue, Chestnut street, Pine street, Locust street, or Washington avenue, which streets are hereby reserved from such use, and all railroad tracks are forever prohibited on the streets named in this section; and, in lieu of the track on Pine street, the Missouri Railroad Company may run the cars of their road, on Eleventh and Benton streets, over the Olive street road; and the Citizens' Railway Company may run the cars of their roads, heretofore authorized by the council, in connection with Washington avenue, over their Morgan street road; and said companies may each construct two additional switches, and a side track not exceeding one hundred

and seventy feet in length, to enable the cars to run on Olive and Morgan streets; the switches on Morgan street may be east of the double track contemplated to be built. (Laws 1859-1860, p. 516.)

Sec. 603. St. Louis Railroad authorized to extend road.—The St. Louis Railroad Company may extend their road north from Salisbury street, along Broadway and Bellefontaine road, to the city limits; and may further extend the same to the Bellefontaine cemetery and the Calvary cemetery, and south from Gate street, along the Carondelet road, to the city limits; and may further extend said road, through the St. Louis commons, to or through the city of Carondelet; *provided*, that before such extension is made through any road or avenue outside the city, the consent of the board of county commissioners shall be obtained, and the consent of the city council of Carondelet shall be obtained before running through any street of that city. (Laws 1859-1860, p. 517.)

Sec. 604. St. Louis Railroad authorized to build branch.—The St. Louis Railroad Company may build a branch road to the fair grounds, along Bremen avenue and other connecting streets, or by such other route as they may select, by the consent of the common council [municipal assembly], after first obtaining the consent of a majority in interest of the property holders on the route selected; and the Missouri Railroad Company may build a branch road from their terminus on Benton street, at Eighteenth street, to the fair grounds, by such route as they may select; *provided*, they first obtain the written consent of the majority in interest of the property holders on the route selected; and the Peoples' Railway Company may extend their road from St. Ange avenue, along Chouteau avenue, to the point where the Pacific Railroad crosses said Chouteau avenue; *provided*, the same is constructed before the first day of February, 1866; and the Missouri Railroad Company may extend their road, from the junction of Olive street and Grand avenue, to the King's highway, with the consent of the property owners where the road runs. (Laws 1859-1860, p. 517.)

Sec. 605. Gravois Railroad authorized to build.—The Gravois Railroad Company, as authorized by the common council [municipal assembly] of St. Louis, may construct their road; *provided*, they shall commence the construction of the same within six months, and finish the same within two years, after Eighth and Ninth streets shall be fully opened, graded and improved, as far south as Park avenue; *and, provided further*, that said company may connect their road from the termination of Decatur street, eastwardly, along Park avenue to Eighth street; and thence northwardly, along Eighth street, to the line authorized by said common council [municipal assembly], unless the said company shall fail to make a satisfactory agreement with the Pacific Railroad Company as to the crossing of their track on Eighth street; then, in that event, said company may turn their track westwardly from Eighth street, along Gratiot street, to Ninth street; thence along Ninth to Chestnut street; and thence along Chestnut to Fifth street; *and, provided further*, that said company shall not be required to construct a branch on Arsenal street, and shall not be permitted to lay their track on Chestnut street east of the eastern line of Fifth street. (Laws 1860-1861, p. 443.)

Sec. 606. Conditions of privilege.—The privilege herein granted of constructing said road on Chestnut street, between Ninth and Fifth streets, shall be continued on the consent of a majority of the owners of real estate on that portion of the road; and the evidence of such consent, on the part of such owners, shall first be filed in the office of the city register, and shall have attached thereto the certificate of the city engineer that the persons named constitute or represent a majority of the owners of real estate fronting on Chestnut street, between Ninth and Fifth; *provided, however*, that no coal or other freight shall be carried on said road northwardly beyond the line of Cerre street, nor between the hours of sunrise and sunset in the day-time. (Laws 1860-61, p. 444.)

Sec. 607. Citizens' Railroad not to lay double track, etc.—Nothing in this act shall be construed as authorizing the Citizens' Railway Company to construct a double-track road on Franklin avenue, without the written consent of a majority in interest fronting that portion of the street where such double track may run. (Laws 1859-60, p. 518.)

Sec. 608. Missouri Railroad authorized to lay track.—The Missouri Railroad Company are hereby authorized to lay a railroad track in the city of St. Louis, along Sixth street, from Market to Chestnut street; thence westwardly, along Chestnut street, to Nineteenth street, thence southwardly, along Nineteenth street, to Market street; thence westwardly, along Market street, to Adolph street; thence southwardly, along Adolph street, to Clark avenue; thence westwardly, along Clark avenue, to Summit avenue; thence northwardly, along Summit avenue, to Market street, or to Manchester road; thence eastwardly, along said road, to connect with the track now laid along said road. (Laws 1863, p. 108.)

Sec. 609. Like provisions as to same railroad.—Until such time as Chestnut street shall be graded and macadamized from Eighteenth to Nineteenth streets, the

said railroad company is authorized to lay a track along Eighteenth street, from Chestnut street, to connect with the track now, or to be, laid on Market street. The track in Adolph street, Clark avenue, Summit avenue and Market street road, shall be laid within six months after the same shall be graded and macadamized. The said company is hereby authorized to lay a track connecting with track now laid on Market and Olive street along any street west of Eighteenth street. (Laws 1863, p. 108.)

Sec. 610. **Proviso—imposing conditions on same road.**—The foregoing authority [two preceding sections] is granted to said company; *provided*, it relinquishes the right to lay a double track along Market street, granted by an act of the General Assembly of the State of Missouri, approved January 16, 1860; *and provided further*, that the said company shall take up the switches now laid in Market street, as soon as the tracks herein authorized to be laid shall have been made available for use. (Laws 1863, p. 108.)

Sec. 611. **Act amendatory of certain acts.**—This act shall be an amendment to each of the several acts incorporating the street railway companies in the city of St. Louis now in operation and carrying passengers in said city, upon their filing a written acceptance of the provisions of this act in the office of the secretary of state. (Laws 1869, p. 218.)

Sec. 612. **Reference to certain charters.**—For charters of further companies, see

"An act to incorporate the Laclede Railroad Company;"

"An act to establish the Lindell Railway Company;"

"An act to incorporate the Bellefontaine Railway Company of St. Louis;"

"An act to consolidate certain roads;"

"An act to incorporate the Tower Grove and Lafayette Railroad Company of St. Louis;"

"An act to amend an act entitled 'an act incorporating the Tower Grove and Lafayette Railroad Company of St. Louis,' approved February 15, 1864;" and

"An act to incorporate the Bremen and Cemetery Railroad Company."

Sec. 613. **May lay tracks when consent of city has already been given.**—All existing street railroad companies, organized under the laws of this state, which have acquired the consent of the municipal authorities or any city, town or village to the use and occupancy by a defined route of any of the streets of such city, town or village, for street railroad purposes, are hereby authorized and empowered to lay their track or tracks, and operate their cars thereon, or operate their roads already constructed on the street or streets, for the full time (of) such consent has already been given, notwithstanding such road or roads may be nearer to a parallel road than the third parallel street from any road now constructed. (Laws 1881, page 84; R. S. 1899, sec. 1175.)

Sec. 614. **May construct road, when consent of city has already been given.**—All existing street railroad companies organized under the laws of this state, and all railroad companies authorized to propel their cars, in whole or in part, by means of a cable under the surface of the street, which have acquired the consent of the municipal authorities of any city, town or village to the use and occupancy by a defined route of any of the streets of such city, town or village for street railroad purposes, are hereby authorized and empowered to construct their road-beds, including conduit for cable, and lay their track or tracks, and operate their cars thereon for the full time for which such consent has already been given, notwithstanding such road or roads may be nearer to a parallel road than the third parallel street from any road now constructed. (Laws 1885, p. 94; R. S. 1899, sec. 1176.)

Sec. 615. **Section repealed.**—Section 3 of an act entitled "An act concerning street railroads in the city of St. Louis," approved January 16, 1860, in so far as the same is inconsistent with or repugnant to the provisions of this chapter, is hereby repealed. (Laws 1885, p. 94; R. S. 1899, sec. 1177.)

Sec. 616. **Roads may be used to carry mails.**—Street railroad companies are hereby authorized, for such compensation as may be agreed upon, to permit their roads to be used for carrying and distributing United States mail along the routes of such roads, and to furnish proper facilities therefor: *Provided*, however, that such use shall not impede or delay the transportation of passengers over such roads. (Laws 1891, p. 97; R. S. 1899, sec. 1178.)

Sec. 617. **Street railroads operating cars by electricity or overhead wires—guard wires and fenders.**—All street railway companies or corporations operating cars by electricity, or by overhead wires, shall construct and maintain its wires at a height of not less than twenty-two feet above the top of the rail of the railroad track crossed by such street railway company, and the wires of such street railway company shall be guarded, or provided with fenders or guard wires, so as to prevent the same from coming in contact with the cars, track or telegraph line along the track of such railroad company. (Laws 1899, p. 374; R. S. 1899, sec. 1179.)

Sec. 618. **Duty of street railway companies where tracks cross railroad tracks.**—It shall be the duty of every street railway company or corporation operating a

street railway across the tracks of a railroad company to bring its cars to a full stop at least ten and not more than twenty feet before reaching the tracks of the railroad company. And it shall be the duty of the conductor, or some other employe of the street railway company, to go forward to the tracks of such railroad company for the purpose of ascertaining whether a train is approaching such crossing. (Laws 1895, p. 123; R. S. 1899, sec. 1180—r.)

Sec. 619. **May construct and operate street railways over bridges connecting any city in this state with any city of an adjoining state.**—Any company owning, leasing, operating or controlling a bridge connecting any city, town or village in this state, with any city, town or village of any adjoining state, may lease, own, construct and operate a street railway over such bridge and in such cities, town or villages and counties in which same may be situated, and in adjoining counties, and may also acquire and hold stock and guarantee bonds of any company operating such street railway or railways. (Laws 1897, p. 98; R. S. 1899, sec. 1181.)

Sec. 620. **Sales of railway equipment and rolling stock—conditional stock.**—In any contract for the sale of railroad or street railway equipment, or rolling stock, it shall be lawful to agree that the title to the property sold, or contracted to be sold, although possession thereof may be delivered immediately, or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon for the unpaid purchase money; and in any contract for the leasing or hiring of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of such contract, and that the rentals or amounts to be received under such contract may, as paid, be applied and treated as purchase money, and that the title to the property shall not vest in the lessee or bailee until the purchase price shall have been paid in full, and until the terms of the contract shall have been fully performed, notwithstanding delivery to and possession by such lessee or bailee: *Provided*, that no such contract shall be valid as against any subsequent judgment creditor, or any subsequent *bona fide* purchaser for value and without notice, unless:

First. The same shall be evidenced by an instrument executed by the parties, and duly acknowledged by the vendee or lessee or bailee, as the case may be, or duly approved before some person authorized by law to take acknowledgment of deeds, and in the same manner as deeds are acknowledged or proved;

Second. Such instrument shall be filed for record in the office of the secretary of state;

Third. Each locomotive engine or car so sold, leased or hired, or contracted to be sold, leased or hired, as aforesaid, shall have the name of the vendor, lessor or bailor plainly marked on each side thereof, followed by the word "owner," or "lessor," or "bailor," as the case may be, which mark or marks shall be effaced immediately upon the payment or satisfaction of the indebtedness or incumbrance thereon; and every corporation, person or persons, which shall fail, neglect or refuse to comply with this provision, shall forfeit and pay for such failure, neglect or refusal the sum of five dollars for every day the same shall be continued, for each piece of property so marked, to be sued for and recovered in the name of the people of the state, by the attorney-general, in any court of cognizance thereof, to be paid into the state treasury in the same manner as fees hereinafter provided by this act. (Laws 1899, p. 374; R. S. 1899, sec. 1182.)

Sec. 621. **Conditional contracts of sale or lease to be recorded.**—The contracts herein authorized shall be recorded by the secretary of state in a book of records to be kept for that purpose. And on payment in full of the purchase money, and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect may be made by the vendor, lessor or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be made by a separate instrument, to be acknowledged by the vendor, lessor or bailor, or his or its assignee, and recorded as aforesaid. And for such services the secretary of state shall be entitled to a fee of twenty-five dollars, and one dollar in addition for every hundred words in excess of one thousand words, for recording each of said contracts and each of said declarations, and a fee of ten dollars for noting such declaration on the margin of the record; and all such fees shall be paid by him into the state treasury and added to the "seminary fund," in accordance with the provisions of section eight thousand and eight hundred and twenty (8820) of the Revised Statutes of 1899. (Laws 1899, p. 374; R. S. 1899, sec. 1183.)

Sec. 622. **Act not to invalidate existing contracts.**—This article shall not be held to invalidate, or affect in any way, any contract heretofore made of the kind referred to in the first section hereof, and any such contract heretofore made may, upon compliance with the provisions of this act, be recorded as herein provided. (Laws 1899, p. 374; R. S. 1899, sec. 1184.)

Sec. 623. **Sections 5178, 5180 and 5181, R. S. 1889, not to apply to such contract.**—Sections 5178, 5180 and 5181 of the Revised Statutes of Missouri shall not be held to apply to contracts of the kind referred to in section 1 of this act. (Laws 1895, p. 114; R. S. 1899, sec. 1185.)

Sec. 624. **Requirements for incorporating street railway companies.**—Any number of persons not less than five, may form a company for the purpose of constructing, maintaining and operating a street railroad for public use in the conveyance of persons, mail and express parcels; and for that purpose may make and sign articles of association in which shall be stated the name of the company, the number of years the same is to continue, the city and county in which the road is to be constructed or maintained and operated, the amount of the capital stock, common and preferred, of the company, and the number of shares of which said capital stock shall consist, and the names and places of residence of the directors, not less than five nor more than thirteen in number, who shall manage its affairs for the first year and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence and the number of shares of stock he agrees to take in said company. When one-half of the capital stock shall have been subscribed and ten per cent. thereon paid in good faith to the directors named in said articles of association, and an affidavit annexed thereto, made by at least three of the directors named therein, that one-half of the stock of the said proposed corporation has been in good faith subscribed, and ten per cent. of the amount so subscribed has been paid, and that it is intended in good faith to construct or maintain and operate the road mentioned in such articles of association, the said articles of association shall be filed and recorded in the office of the secretary of state, and thereupon the said association shall by the name mentioned in the said articles of association become a body politic and corporate with the powers, rights and franchises hereinafter specified: Provided, the said articles of association shall not be filed and recorded until such association or corporation shall pay into the state treasury fifty dollars for the first fifty thousand dollars or less of the capital stock of the corporation, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. (Laws 1899, p. 374; R. S. 1899, sec. 1186.)

Sec. 625. **Powers of corporation.**—Every corporation formed under the provisions of this act shall have power:

First, to construct or maintain and operate its railroad along, across or over the streets of any incorporated city or town or the roads of any county: Provided, the consent thereto of the municipal authorities of such city or town or the county court of such county is first obtained: Provided, municipal authorities of cities or towns shall not grant the right of way over, along or across any street, except upon the petition of the owners of the land representing more than one-half the frontage of the street or so much thereof as is sought to be used for street car purposes, and when the street or parts thereof that is sought to be used shall be more than one mile in extent, no petition of land owners shall be valid unless the same shall be signed by the owners of the land representing more than one-half the frontage of each mile, and of the fraction of the mile, if any, in excess of the whole mile, measuring from the initial point named in such petition [of], such street or parts thereof sought to be used for such purposes.

Second, to operate its road by animal, cable, electric or other motive power, as the consent of the use of which said power may be obtained from the public authorities of such city, town or county.

Third, to receive and collect such fares for the transportation of persons, express and mails as may be provided in the said consent of said public authorities of such city, town or county, given as aforesaid.

Fourth, to acquire by grant a right of way not to exceed fifty feet in width over private property, and to construct or maintain and operate its road thereon.

Fifth, to purchase and acquire depots, power-house sites or terminals.

Sixth, to issue bonds payable in such amount and at such times and places as it deems best, and may dispose of the same for the purposes of its incorporation, and, to secure payment of the same, may mortgage its property, real and personal, and also the franchises of the company.

Seventh, to purchase, lease or acquire by other lawful contract, which shall include the right to purchase the capital stock and bonds of other street railroad companies, and to hold and dispose of the same, and to hold, use and operate any street railroad or roads, with all and singular its or their franchises and properties of every description belonging to any other street railroad corporation or corporations: Provided, that such purchase, lease or other contract be authorized or approved by the vote of the holders of two-thirds in amount of the capital stock of the company so purchasing, leasing or otherwise contracting therefor at a meeting called for that purpose upon twenty days' notice, published in some newspaper of the city or county where the general office of such street railroad company may be

located, or by written notice mailed to the last known address of each registered stockholder twenty days before such meeting; and provided further, such roads connect with or intersect each other, so as to allow a single passage one way over each road for a single fare.

Eighth, to sell, lease or dispose of by any other lawful contract, to any other street railroad company, its railroad rights, franchises, including the right to be a corporation, and all and singular its other properties of every character and description: Provided, that such sale, lease or other contract, disposing of its railroad, franchises and other properties, shall be first authorized or approved by the vote of two-thirds in amount of the holders of its capital stock at a regular or called meeting of its stockholders convened pursuant to such notice as is required in the next preceding clause.

Ninth, to have and enjoy all such other powers and franchises as are usually had, enjoyed and exercised by street railroad companies, in addition to the powers hereinbefore enumerated. (Laws 1899, p. 374; R. S. 1899, sec. 1187—s.)

Sec. 626. Street railway companies required to accept provisions of this act.—Any street railroad company heretofore organized under any general or special law of this state, may have and enjoy all the benefits, powers and privileges of this act by filing in the office of the secretary of state a resolution of its board of directors accepting the provisions of this act, and paying into the state treasury the same fees as provided in section 13 [1186] of this act. (Laws 1899, p. 374; R. S. 1899, sec. 1188.)

Sec. 627. Increase of capital stock and bonded indebtedness provided for.—Any company formed under this act or accepting the provisions thereof, may increase its capital stock or bonded indebtedness from time to time by the authority of the vote of a majority of the stockholders of such company at a regular annual election for the directors thereof, or at a special meeting of the stockholders of said company called to consider the same, upon sixty days' public notice. (Laws 1899, p. 374; R. S. 1899, sec. 1189.)

Sec. 628. Preferred stock authorized.—Any railroad company organized under the provisions of this act, or accepting the provisions thereof, may issue preferred stock for such amount and upon such terms and conditions as the board of directors may prescribe, by and with the consent of the shareholders of such company expressed at a regular or special meeting of such stockholders called upon twenty days' published notice or twenty days' written notice to each registered stockholder addressed to him at his last known address. (Laws 1899, p. 374; R. S. 1899, sec. 1190.)

Sec. 629. Sections 8298, 8299, 8300 and 8301, R. S. 1889, not repealed.—Nothing in this act shall be construed as repealing sections 8298, 8299, 8300, 8301, of the Revised Statutes of 1889, and an act entitled "An act concerning street railroads in the city of St. Louis," approved January 16, 1860. (Laws 1899, p. 374.)

Sec. 630. Emergency clause.—The fact that the law in reference to street railroads is imperfect, and that a necessity for a full and complete law relating thereto exists creates an emergency within the meaning of the constitution why this act should take effect at once; therefore, this act shall take effect and be in force from and after its passage. (Laws 1899, p. 374—t.)

CHAPTER THIRTY-THREE A.

SUBWAYS.*

Sec. 630a. Subways owned by cities.—All cities in this state having one hundred thousand inhabitants or over are hereby authorized and empowered to build or to acquire, by purchase or otherwise, within their respective corporate limits, a subway or subways, to be exclusively owned by such cities, with such suitable approaches, connections, loops, turn-outs, sidings, stations, exits, entrances and other appurtenances, and land, right of way and easements and estates and rights in lands, including the right to go on, under or above the surface, as may be necessary or expedient for the construction and efficient use of such subway or subways for the transportation of persons, baggage, express and freight, and for cars, other means of transportation, pipes, wires and cables used for public service purposes. (Laws 1907, p. 117, sec. 1.)

Sec. 630b. Powers of city—limitation of powers.—All such cities may operate or may lease such subway or subways, or parts thereof, on terms to be fixed

*This act is not technically applicable specially to St. Louis, but practically is so, and hence it has been inserted.

(s) Consolidation amendment referred to in *Tanner vs. Lindell Ry. Co.*, 180 Mo. 1. This section is also discussed in connection with the relations between the *United Rys. Co.* and the *St. Louis Transit Co.*, in the recent case of *Moorshead vs. United Rys. Co.*, 119 Mo. App. 541, 567, 577, which was certified to the Supreme Court and affirmed in *February, 1907* (not reported at this writing).

(t) See *Moorshead vs. United Rys. Co.*, 119 Mo. App. 541, 567 (certified to Supreme Court and affirmed in *Feb. 1907*).

by said cities. Such cities may contract for the purchase or construction of such subway or subways, and for lease of same, and may grant rights therein, or in any part thereof, upon such terms as they may deem best, for cars, other means of transportation, pipes, wires and cables used for public service purposes. But no such lease or grant shall be made for a longer period than fifty years. And such cities may regulate the use of such subway or subways, and of the construction and operation of cars, other means of transportation, pipes, wires and cables used therein: Provided, that such city shall not lease, grant or let such street railroad, street railroad system, subway or subways, or any part thereof, or rights therein, for any purpose whatever, without the assent of a majority of the qualified voters of such city voting for or against such lease, grant or letting at an election held for that purpose. (Ib., sec. 2.)

Sec. 630c. **Bonds.**—Any such city may issue and sell, at not less than par, its bonds, payable out of the revenue or income from such subway or subways. (Ib., sec. 3.)

CHAPTER THIRTY-FOUR.

TOBACCO, PETROLEUM AND BEER INSPECTION.

- Art. 1. Petroleum inspection.
- Art. 2. Tobacco inspection.
- Art. 3. Beer and grain inspection.

ARTICLE I.

INSPECTION OF PETROLEUM.*

Sec. 631. **Compensation, etc.**—Each inspector shall demand, collect and receive from the owner or person calling upon him to inspect, or for whom he shall make any inspection, fees at the following rates for inspecting or testing, gauging and branding said oils or fluids under this article, to wit: For each barrel or larger package the sum of twelve cents; for each small package the sum of six cents; and when an inspection in bulk is made, in the manner provided in section 7586, the sum of twelve cents for each barrel or other package filled, gauged and branded according to the provisions of said section: Provided, that all cities in the state, which may now have or may hereafter have a population of three hundred thousand inhabitants or more, the said inspector of oils and petroleum shall have and retain seven thousand dollars out of the said fees collected for inspections as herein stated and required of him, as and for his full compensation, fees and salary, and out of which he shall pay all clerical hire and other employes and all expenses of whatever character in the management and conduct of the business of his office; and the balance of said fees so collected over and above the said sum of seven thousand dollars, he shall pay over to the treasurer of the state of Missouri, to be placed to the credit of the general revenue fund of the state. Said inspector shall at the time of said payments to the treasurer, take a receipt and duplicate receipt therefor. The original he shall file with the state auditor and the duplicate he shall file in his own office and keep as a part of the records thereof. Said payments shall be made to the treasurer on the second Monday in January and July of each and every year, and said inspectors shall on said dates file a full, true, complete and sworn statement with the auditor of the state of all oils inspected during the six months preceding and since his last statement and settlement, also containing the names of the persons, firms or corporations for whom inspections were made and number of gallons of oils inspected, barrels gauged and branded. (R. S. 1899, sec. 7593—u.)

ARTICLE II.

INSPECTION OF TOBACCO.

Sec. 632. **Inspection of tobacco—term of office, and qualifications of inspector.**—There is hereby established in the city of St. Louis, Missouri, a tobacco inspection. The governor shall appoint in the City of St. Louis an inspector

*The inspection of Petroleum in general is covered by Rev. St. 1899, secs. 7582-7597, applying to St. Louis, Hannibal, St. Joseph, Kansas City and such other towns as may petition the Governor therefor. The only section peculiarly applicable to St. Louis is the one relating to compensation, which is herein set out.

(u) This statute was upheld as constitutional in *State ex rel. vs. Speed*, 183 Mo. 186. It was also there held that the \$7,000 provision means annually, not semi-annually. The inspector has no authority to inspect oils outside the limits of the city: *State ex rel. vs. White*, 75 Mo. 465, 468. Term of office: *State ex rel. vs. Stone-street*, 99 Mo. 361. Duties of inspectors, rules of inspection: See *State ex rel. vs. Baggett*, 96 Mo. 63; *Priest vs. Tank Co.*, 51 Mo. App. 205; *State vs. Parsons*, 12 Mo. App. 205, Liability on Bond: *Co. Court vs. Fossett*, 65 Mo. 418.

of tobacco, who shall hold his office for two years; said inspector shall be a discreet, suitable person, and shall not be interested in any of the tobacco warehouses selling leaf tobacco in the city of St. Louis as a stockholder or otherwise than as tobacco inspector. (R. S. 1899, sec. 7598.)

Sec. 633. Duties of inspector.—No inspector shall either buy or sell any tobacco, except of his own raising, but shall auctioneer and cry off all inspected leaf tobacco, for the owner or agent, sold at the warehouse. (R. S. 1899, sec. 7599.)

Sec. 634. His bond.—The inspector shall, before he enters upon the duties of his office, enter into bond to the city of St. Louis, to be approved by the mayor of said city, with sufficient security, in a sum not less than ten thousand dollars, conditioned for the faithful performance of his duties according to law, which bond shall be recorded in the office of the city register and filed in the office of the secretary of state, and a certified copy thereof shall be evidence. (R. S. 1899, sec. 7600.)

Sec. 635. Books to be kept by him.—The inspector shall keep a book, in which shall be entered the marks of all tobacco which he may be required to inspect, and he shall inspect and examine the same in due time as it shall be entered in such book, unless otherwise agreed, without favor or partiality, and shall attend at the respective warehouses during all business hours of each regular secular day, whenever called on so to do. (R. S. 1899, sec. 7601.)

Sec. 636. Penalty for failing to attend.—Any inspector failing to attend when so requested shall forfeit to the party aggrieved fifty dollars for every such failure, or the aggrieved party may recover all damages he may have sustained by such failure by action on the bond of such inspector or by civil action. (R. S. 1899, sec. 7602.)

Sec. 637. Charges and fees, by whom paid.—The purchaser and seller shall each pay one-half of all warehouse charges, including inspection fees, on all tobacco sold, but when the sale of any tobacco offered is rejected, then the owner or agent shall pay the whole of the warehouse charges, including the inspection fees. (R. S. 1899, sec. 7603.)

Sec. 638. Warehouse-keeper to have tobacco inspected.—Any person or persons who may erect or shall keep a tobacco warehouse in the city of St. Louis, for the purpose of offering and selling leaf tobacco prized in hogsheads, shall have such tobacco inspected before sale, by the state inspector appointed in and for the City of St. Louis, and by no other. (R. S. 1899, sec. 7604.)

Sec. 639. Oath of inspector.—The oath of the inspector shall be in the form following:

I, ———, do solemnly swear that I will carefully and diligently inspect and examine all tobacco which I may be called on to inspect, and that I will not change, alter or give out any tobacco as a sample other than such as shall have been taken from the hoghead for which the receipt to be taken was given, and that I will not, directly or indirectly, be engaged in the manufacturing, shipping or exportation of tobacco, nor will I deal in any manner in the article during the time that I shall continue in office, except as expressly permitted by law, but that I will in all things well and faithfully discharge and perform my duty in the office of inspector, according to the best of my skill and judgment, and according to the direction of the law, without fear, favor or affection, malice or partiality, so help me God. (R. S. 1899, sec. 7605.)

Sec. 640. To be filed, where.—Such oath shall be filed in the office of the secretary of state, and a violation thereof shall be deemed perjury, and shall subject the party, upon conviction, to the penalties of perjury. (R. S. 1899, sec. 7606.)

Sec. 641. Hogsheads to be weighed and branded before inspection.—The inspector of tobacco shall, before any hoghead of tobacco is uncased for inspection by him, cause the same to be carefully weighed and the gross weight marked or branded thereon. (R. S. 1899, sec. 7607.)

Sec. 642. Mode of inspection.—After a hoghead has been thus weighed and marked and branded, the inspector shall uncage and break the same in not less than two nor more than four places and take from each break a like proportion of tobacco as a sample of the whole hoghead that he may inspect, and each hoghead shall be by him carefully weighed in the scales or the balance, and with the weight kept in the warehouse, and shall be by him marked with the tare of the hoghead and the quantities of tobacco therein contained, and also with the words "Missouri State Tobacco Inspection." (R. S. 1899, sec. 7608.)

Sec. 643. Tare and net weight.—The tare, with the addition of ten pounds or weight of sample, shall be deducted from the gross weight; the remainder shall be the net weight, and the inspector shall in all cases deliver to the owner or the purchaser of any hoghead of tobacco the samples which were drawn from the same. Whenever any hoghead of tobacco shall have been weighed under the superintendence of the inspector, and the net weight registered and marked on such hoghead of tobacco,

he shall be responsible to the purchaser, owner or agent of the same for the net weight of tobacco so registered and marked on such hogshead of tobacco, reasonable allowance being made for waste in handling. (R. S. 1899, sec. 7609.)

Sec. 644. **Samples to be done up, how.**—It shall be the duty of the inspector to have all samples of tobacco drawn by him well tied, tagged and sealed; the card or tag so placed upon the sample shall contain the number, gross weight, net weight and date of inspection, and the seal so used shall contain the words "Missouri state tobacco inspection." (R. S. 1899, sec. 7610.)

Sec. 645. **Form of certificate of inspection.**—The inspector shall issue a certificate to the owner or agent for each hogshead of tobacco by him inspected, which shall, as near as possible, be in the form following:

At _____ warehouse in the city of St. Louis, in the state of Missouri, this _____ day of _____ 19____, inspected for _____ one hogshead of leaf tobacco (strips, scraps or stems, as the case may be), number, mark and weight as follows: Number 1, marks 1, gross 1, tare 1, net 1. Witness my hand, the day and year aforesaid.

A_____, inspector.

And the keeper or superintendent of any warehouse where such tobacco is left on storage shall, upon every certificate issued by the inspector, certify upon the face of the same that said tobacco is on storage and deliverable only on return of said certificate to the holder thereof. (R. S. 1899, sec. 7611.)

Sec. 646. **Hogshead to be restored to good shipping order.**—It shall be the duty of the inspector to attend and see that after the uncasing and inspection of tobacco the same be replaced to its former condition, and in good shipping order, and that all leaf tobacco belonging to each and every hogshead so opened and inspected be put back as near as possible to where it belonged before the same was uncased. (R. S. 1899, sec. 7612.)

Sec. 647. **Inspector's fees.**—For every hogshead of tobacco inspected in the city of St. Louis, the inspector shall receive twenty-five cents inspection fee, which may be collected with the other warehouse fees. (R. S. 1899, sec. 7613.)

Sec. 648. **Penalty for unauthorized inspection.**—If any person other than the inspector shall inspect any hogshead of tobacco within the city of St. Louis, or if any person occupying any store or warehouse within the city of St. Louis shall suffer or permit any person other than the inspector to inspect any hogshead of tobacco upon the premises occupied by him, such person inspecting the tobacco and such person or persons suffering or permitting such illegal inspection, shall each be fined in the sum of one hundred dollars for every hogshead of tobacco so inspected to the use of the state, to be recovered by indictment. (R. S. 1899, sec. 7614.)

Sec. 649. **Scales and hands, by whom furnished.**—No inspector shall be required to furnish scales or hands to strip or break tobacco, but the same shall be furnished by the warehouse or any person or persons that may have tobacco inspected in the city of St. Louis. (R. S. 1899, sec. 7615.)

Sec. 650. **Fraudulently packed hogsheads to be marked, how.**—In case the inspector in the inspecting or sampling of any hogshead of tobacco shall find any evidence or indication of its being falsely or fraudulently packed, it shall be his duty to write across the face of his certificate and across the face of the tag in red ink, "falsely or fraudulently packed," and he shall further give notice to the assembly of dealers before offering said hogshead of tobacco for sale. (R. S. 1899, sec. 7616.)

Sec. 651. **Appointment and qualification of deputies.**—The inspector is hereby empowered, if necessary to the convenient dispatch of his respective duties, to appoint one or more deputies at his own cost, for whom he shall be accountable, which deputies are hereby empowered to perform duties of inspection, and shall be liable to the same penalties as the inspector; said deputies shall take the same oath as prescribed for the inspector, and for whose official conduct the said inspector shall be liable upon his official bond. (R. S. 1899, sec. 7617.)

Sec. 652. **Inspectors and warehouse-keepers not responsible for natural loss in weights.**—Section 7906 shall not be construed so as to hold the inspector and warehouse-keeper, or either of them, responsible for the natural losses of weight that may occur or take place during storage and while the same is undergoing the sweat to which leaf tobacco is subject. (R. S. 1899, sec. 7618.)

Sec. 653. **Sales of tobacco to be approved by the owner.**—All tobacco cried off, or offered for sale, shall be subject to the approval of the owner or agent thereof, but it shall be the duty of the said owner or agent to accept or reject the sale of said tobacco before the tobacco sale is over on that day; but in the event of his failure to accept or reject such sale within the time specified as above, it shall be at the option of the purchaser to accept the terms of said sale. (R. S. 1899, sec. 7619.)

Sec. 654. **Certificates of inspection negotiable.**—The certificate of a hogshead of tobacco issued by the inspector of tobacco, and countersigned by the keeper or superintendent of the warehouse, shall be negotiable, and the warehouse, store, person or persons under whose charge the package or hogshead of tobacco for which said certificate was issued is stored, shall be responsible for the full value of the same to the holder of said certificate, loss or damage from elemental causes alone excepted. (R. S. 1899, sec. 7620.)

Sec. 655. **Appointment of local inspectors in other towns.**—Nothing in this article shall be so construed as to prevent any other town, city or county from establishing tobacco inspection, when twenty free-holders shall petition the governor for the appointment of a tobacco inspector for such local inspection: Provided, said inspector so appointed by the governor shall be subject to all the provisions of this article relating to the qualification, duties and fees of the tobacco inspector for the city of St. Louis, except so far as regards the matter of residence and filing his bond. (R. S. 1899, sec. 7621.)

Sec. 656. **Limit of warehouse fees.**—The warehouse fees shall not exceed three dollars for each hogshead including inspection fee at any one offer. (R. S. 1899, sec. 7622.)

ARTICLE III.

BEER AND GRAIN INSPECTION.*

CHAPTER THIRTY-FIVE.

WORLD'S FAIR AND CENTENNIAL EXPOSITION.**

Section 657. [Laws 1899, pp. 130-134 (R. S. 1899, secs. 1523-1535), being "an act authorizing the incorporation of organizations designed for the purpose of holding world's fairs and centennial expositions, and defining the powers and duties of such corporations. Laws 1903, p. 138, exempting such companies from taxation and payment of certain fees, etc. As to appropriations for the Fair see Laws 1901, p. 39, Laws 1903, p. 47, *Ib.*, p. 196.]**

*The provisions of the law relating to grain inspection are Rev. St. 1899, secs. 7623-7681, inclusive, and those relating to beer inspection Rev. St. 1899, secs. 7682-7697, inclusive. They are both of a general nature and hence not "specially applicable" to St. Louis and are therefore not herein set out. The beer inspection law was sustained as constitutional: *State vs. Bixman*, 162 Mo. 1; *Pabst Brew. Co. vs. Crenshaw*, 198 U. S. 17.

**It is thought that a reference to these acts may not be out of place, since the Fair was held in St. Louis and hence peculiarly applicable here in effect, although, as the law is one general in its terms, and not technically applicable to St. Louis alone, and as the fair of 1904 was temporary, and has passed into history, the provisions of the acts are merely referred to as a matter of convenience, and its lengthy provisions are not set forth *verbatim* in this revision. At the election of Nov. 6, 1900, the constitutional amendment was adopted authorizing the city to issue \$5,000,000 of bonds in aid of the Fair, (amending Art. X, sec. 12), and in pursuance thereof the city issued the bonds as per ordinances 20641 and 20758. See also constitutional provisions Art. IV., sec. 45.

For other ordinances connected with or relating to World's Fair matters, see ord. No. 20412 (authorizing the use of any of the parks for the site), No. 21201 (temporary buildings), No. 21470 (use of frame buildings for temporary hotels), No. 21971 (extension of time to remove temporary buildings), No. 21479 (closing certain streets during the fair), No. 20654 and 20669 (library and museum in Forest Park), No. 21518 (police court in Forest Park, see note to Rev. Code, sec. 1263), No. 21353 (engine house in Forest Park); No. 21523 (water rates; see note to sec. 2488 of Rev. Code).

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PART II.

ORGANIC PROVISIONS RELATING TO THE MUNICIPAL GOVERNMENT OF THE CITY OF ST. LOUIS.

INCORPORATION OF THE TOWN OF ST. LOUIS.

SCHEME OF SEPARATION AND REORGANIZATION.
(ANNOTATED.)

CHARTER OF THE CITY OF ST. LOUIS.
(ANNOTATED.)

INCORPORATION OF THE TOWN OF ST. LOUIS.*

The town of St. Louis was first incorporated on the 9th day of November, 1809, by the court of common pleas for the district of St. Louis, upon the petition of two-thirds of the taxable inhabitants, under authority of an act of the legislature of the Territory of Louisiana, passed June 18, 1808, entitled "An act concerning towns in this Territory." The judges constituting the court were Silas Bent, president, and Bernard Pratte and Louis LeBeaume, associates. The charter granted by the court was the only one under which the town existed until 1822, when it was incorporated as a city. It is to be found in the records of the court, in book A, page 334, in the following words:

"On petition of sundry inhabitants of the town of St. Louis, praying so much of said town as included in the following limits to be incorporated, to-wit: Beginning at Antoine Roy's mill, on the bank of the Mississippi; thence running sixty arpents west; thence south on said line of sixty arpents in the rear, until the same come to the Barriere Denoyer; thence due south until it comes to the Sugar Loaf; thence due east to the Mississippi; from thence, by the Mississippi, to the place first mentioned. The court having examined the said petition, and finding that the same is signed by two-thirds of the taxable inhabitants residing in said town, order the same to be incorporated, and the metes and bounds to be surveyed and marked, and a plat thereof filed of record in the clerk's office. And David Delaunay and William C. Carr are appointed commissioners to superintend the first election of five trustees, in pursuance of the law." (Mun. Code, p. 177.)

*A history of the early charters of the City of St. Louis may be found in the introductory note to Mr. McQuillin's valuable work "Amended Charter of St. Louis," 1901. The author also treats of the developments until the adoption of the present charter.

SCHEME

FOR THE

SEPARATION AND REORGANIZATION OF THE GOVERNMENTS

OF THE

CITY AND COUNTY OF ST. LOUIS

AND THE ADJUSTMENT OF THEIR RELATIONS.

SCHEME

FOR THE

SEPARATION AND REORGANIZATION

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CITY AND COUNTY OF ST. LOUIS

AND THE ADJUSTMENT OF THEIR RELATIONS.*

SECTION.

1. Boundaries. Territory of new county.
2. City and county declared separated; authority of County Court annulled.
3. Election of officers for St. Louis County; judicial and representative districts established; county seat.
4. Present County Court to order election in November, 1876; duties and responsibilities of Court in connection with separation.
5. Election of Sheriff, Coroner and Public Administrator for city; duties and compensation.
6. City Marshal to assume duties of former County Marshal.
7. Sheriff of County *ex-officio* Collector; Clerk of County *ex-officio* Recorder; present Recorder continued in office.
8. Assessment and collection of taxes under Scheme; duties of Collector and Treasurer as to moneys; uncollected tax bills; office of County Auditor abolished.
9. County Court to transfer public buildings, moneys, etc., to city; Mayor may retain or discharge appointees of Court.
10. Title to public buildings, parks, etc., transferred to city; assumption of county debt by city.
11. Municipal Assembly to provide for payment of county debt.
12. City officers to qualify under Charter; election of Municipal Assembly; city offices to be filled in April, 1877.
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*As to date of adoption, and the effect thereof, etc., see Introductory note to Charter, under "General Considerations Respecting the Charter."

The following Scheme for the separation of the governments of St. Louis City and County, the definition of the boundaries of said city as enlarged, the reorganization of the government of said county, and the adjustment of the relations between said city and county so that they shall hereafter be independent of each other, is hereby adopted as the organic law thereof.

Section 1. Boundaries of the City of St. Louis—Territory of St. Louis County.—The boundaries of the City of St. Louis are hereby enlarged, settled and established as follows:

The corporate limits of the City of St. Louis shall comprise all that district of country situated in the County of St. Louis and State of Missouri, to-wit: Beginning at a point in the middle of the main channel of the Mississippi river, and running thence westwardly at right angles to said channel, to a point on the west bank of said river 200 feet south of the center of the mouth of the River des Peres; thence westwardly and parallel to the center of the River des Peres, and 200 feet south thereof, to the eastern line of the Lemay Ferry road; thence westwardly to a point in the west line of said Lemay Ferry road at its intersection with the center of the Weber road; thence westwardly along the center of the Weber road to its intersection of the east line of lot (1) one of the Carondelet Commons, south of the River des Peres; thence westwardly to the southeast corner of Rudolph Overman's, or northeast corner of B. H. Haar's land; thence westwardly to said Haar's northwest corner; thence northwestwardly to a point in the center of the Gravois road (600) six hundred feet southwardly from the center of the bridge across the River des Peres; thence northwestwardly to the southeast corner of lot (31) thirty-one of the subdivision of the Mackenzie tract in United States Survey one thousand nine hundred and fifty-three (1,953) thence northwestwardly in continuance of said last mentioned line to the southern line of lot twenty-one (21) of the subdivision of the said Mackenzie tract; thence northwestwardly to a point in the southern line of United States Survey 2,035, twenty-six (26) chains eastward from the southwest corner of said survey; thence northwardly to a point in the north line of the subdivision of East Laclede, six hundred (600) feet west of the McCausland road; thence northwardly and parallel with the center of the McCausland road, to a point on the Clayton road (600) six hundred feet west of its intersection with the McCausland road; thence northwardly and parallel with the Skinker road, and (600) six hundred feet west thereof, to its intersection with the old Bonhomme road; thence northeastwardly to the intersection of the center lines of McLaren avenue and Mead street; thence in a northeastwardly direction to a point in the Bellefontaine road (600) six hundred feet north of its intersection with the Columbia Bottom road; thence northwardly and parallel with center line of the Columbia Bottom road to the northern boundary line of United States Survey number (114) one hundred and fourteen; thence eastwardly along said line to the center of the main channel of the Mississippi river; thence with the meanderings of said channel southwardly to the point of beginning; and the residue of what now constitutes the County of St. Louis shall hereafter be called St. Louis County.

See note to Art. I, Sec. 2, of the charter.

Sec. 2. City and County declared separated; authority of County Court annulled.—The City of St. Louis, as described in the preceding section, and the residue of St. Louis County, as said county is now constituted by law, are hereby declared to be distinct and separate

municipalities, and all authority heretofore exercised by the County Court of St. Louis County, or any officer of said county, is hereby forever abrogated and annulled, except for the purposes and in the cases as hereinafter provided.

Sec. 3. Election of officers for St. Louis County—judicial and representative districts established—county seat.—At the general election for State and other officers, on the Tuesday next following the first Monday in November, 1876, and every two years thereafter, there shall be elected officers for St. Louis county, as follows: A Sheriff, who shall be *ex-officio* Collector, Coroner, Assessor, Treasurer; a Clerk of the County Court, who shall be *ex-officio* Recorder of Deeds; they shall hold their offices for the term of two years, and shall perform such duties as are now provided by law for such officers, until their successors are duly elected and qualified; also, a Public Administrator, who shall be elected at said election, and every four years thereafter, and shall hold his office for four years, and perform the duties now prescribed by law. There shall also be elected at said election three Justices of the County Court, who shall constitute the County Court of said county, and their powers, duties and terms of office shall be as defined and governed by the general law at present applying to other counties in this State. And for that purpose the County of St. Louis, as established by this Scheme, shall be divided into two districts by a line commencing at a point where the Clayton road intersects the boundary between the City and County of St. Louis, as established by this Scheme and Charter, and running thence westwardly with the Clayton road to the eastern boundary of Bonhomme township, as now established; thence north with the eastern boundary of said township to the Missouri River. So much of said county as lies north and east of said line shall constitute district number one, and so much of said county as lies south and west of said line shall constitute number two. One Justice of the County Court shall be elected by the qualified voters of each of said districts, and the Presiding Justice of said County Court shall be elected at large by the qualified voters of said county. Said county shall be divided and numbered in the same manner into two Representative Districts, and until otherwise districted by law, one Representative in the General Assembly of the State shall be elected by the qualified voters of each of said districts. Immediately succeeding the election in November, 1876, and when the result thereof is officially determined as hereinafter provided, the Justices of the County Court shall meet at James C. Sutton's house, on the Manchester road, for the purpose of organizing the new government of the county, determining the bonds of the county officers, and making such appointments as may be authorized by law. Said Court may determine at what place in said county said Court shall meet and the county offices be located until the question of a permanent seat of justice may be determined. And for that purpose the following persons shall be and they are hereby appointed Commissioners, to-wit: Robert G. Coleman, Wm. W. Henderson and Thomas J. Sappington, who shall, after the Scheme goes into effect, select a suitable place for the count seat of said county, and report such selection to the County Court of said county, when it shall be the duty of said Court to submit to the qualified voters of said county, at a special election to be ordered by said Court, within six months from the filing of said report, the question as to whether the place so selected shall be the place for the permanent seat of justice of said county; and if a majority of the qualified voters of said county, voting at said election, shall be in favor of said location, then the same shall be, and remain the seat of justice or county seat of such county; but if a majority of the qualified

voters, voting at such election, shall be against such location, then the permanent seat of justice shall be established in the manner as at present provided by law in regard to new counties. There shall be elected at said election such justices of the peace and constables for the county as said county may be entitled to under existing laws, who shall hold their offices according to the general provisions of law applying to other counties in this state.

The legislature has power to change the tenure of office and dates of election of officers as fixed by this section of the Scheme, and it did so as to clerks of courts by laws 1877, p. 192: State ex rel. vs. Matthews, 94 Mo. 117.

Sec. 4. Present County Court to order election November, 1876—duties and responsibilities of Court in connection with separation.—The present County Court of St. Louis County shall order and make all necessary arrangements for the general State election in November next, and shall order at the same time the election of the Justices and officers for St. Louis County, as specified in the preceding section, and the members of the present County Court thereof shall continue in authority and in the discharge of their present duties, except as herein otherwise provided, until the new County Government is organized, and the proper county officers, as provided herein, are commissioned and qualified, and thereupon their terms of office and that of Clerk of said Court shall cease, and the offices of Justices of the County Court and Clerk of the said County Court, as now established, shall be forever abolished: *Provided*, That nothing in this section shall relieve said Court and its officers and employees from full responsibility for the management and custody of all interests and property of the County of St. Louis, as constituted previous to the adoption of this Scheme, until a formal transfer of the same to the proper authority, as herein provided, has been effected.

See note to Art. IV, Sec. 1 of Charter.

Sec. 5. Election of Sheriff, Coroner, and Public Administrator for city—duties and compensation.—It shall be the duty of the Mayor of the City of St. Louis to order an election on the same day as the general election in November, 1876, and every two years thereafter, for a Sheriff for the City of St. Louis, and Coroner for said City, who shall be elected by the qualified voters of said city, and shall hold their offices for two years and until their successors are duly elected and qualified, and they shall be commissioned by the Mayor. A Public Administrator for said city shall also be elected at the general election aforesaid, and every four years thereafter, whose term of office shall be four years, and whose duties shall be as provided by law. The official bond of said officers shall be fixed and determined by the Municipal Assembly, in conformity with the constitution and laws; and pending such action the Sheriff, Coroner and Public Administrator shall give bond in such amounts as now required of like officers for the present County of St. Louis, with not less than two securities, owners of unincumbered real estate in the City of St. Louis, to be approved by the Mayor; and said bonds, when so approved, shall be filed with the Register; and said officers shall respectively perform within the city limits such duties as are now provided by law in regard to the Sheriff, Coroner and Public Administrator of St. Louis County, and shall receive the same compensation allowed said officers of St. Louis County prior to the adoption of this Scheme, until otherwise provided by

law. The Coroner shall discharge the duties of Sheriff in all cases in which Coroners are authorized to discharge those duties by law.

See as to elections, terms, etc., note to Charter, Art. IV, Sec. 1. The adoption of the Scheme and Charter was at first supposed to be defeated, and no election for sheriff was called in November, 1876, for the City of St. Louis; but the office of the old county no longer existed owing to the fact that the Scheme of separation had actually as it developed, been adopted, and it was held that one elected as sheriff for the supposed county had no more than color of title and it devolved on the Governor to appoint the first lawful sheriff: State ex rel. vs. Finn, 4 Mo. App. 347.

Duties and Powers of Sheriffs and Coroners in St. Louis, see references in notes to Charter, Art. IV, Secs. 14 and 31.

Sec. 6. City Marshal to assume duties of former County Marshal.—The Marshal of the City of St. Louis, in addition to his other duties, shall assume and discharge all the duties heretofore discharged by the Marshal of St. Louis County, within the limits of the City of St. Louis; and the present County Marshal shall deliver to said City Marshal all books, documents and property of every kind in his possession by virtue of said office, except such property as may properly belong to the reorganized County Government, which shall be delivered to the Sheriff of St. Louis County, elected in November, 1876.

Effect of Scheme on old county marshal was to abolish the office and confer same on the new city marshal until otherwise provided, etc.: See discussion as to duties of marshal, sheriffs, etc., in State ex rel. vs. Mason, 4 Mo. App. 377. Duties of Marshal: See also Scheme, Secs. 18, 27, 30; Charter, Art. IV, Sec. 31; Rev. Code, Secs. 1329-1339.

Sec. 7. County Sheriff ex-officio Collector—County Clerk ex-officio Recorder—present Recorder to continue in office.—The Sheriff of St. Louis County, elected as provided in section 3, shall be *ex-officio* Collector of the revenue of said county; and the Clerk of said County Court shall be *ex-officio* Recorder of Deeds for said county; and the present Recorder of Deeds for St. Louis County shall hereafter be known as Recorder of Deeds, and shall hold his office for his term as now prescribed by law, and until his successor shall be elected and qualified; and at the general election in November, 1878, and every four years thereafter, a City Recorder shall be elected by the qualified voters of the City of St. Louis.

Sheriff as *ex-officio* collector of St. Louis Co. under this section: See Webster vs. Smith, 78 Mo. 163.

Sec. 8. Assessment and collection of taxes under Scheme—duties of Collector and Treasurer as to moneys—uncollected tax-bills—office of County Auditor abolished.—The office of the President of the Board of Assessors is hereby declared a city office, and is placed under the control of the city government, but the President of said Board shall cause the books and plats of said office to be divided, and such portions thereof as exclusively refer to St. Louis County shall be delivered to the proper officer for the use of said county; but if this cannot be done, or can be done only in part, then abstracts shall be made thereof and the cost of same paid out of the City Treasury. The present State and County Collector shall continue in office until the expiration of his official term, and thereafter his duties shall be discharged by the City Collector, and upon this Scheme going into operation the said State and County Collector shall pay over all collections for city and county taxes levied for general purposes, and for licenses collected within the city limits, as herein extended, and all county taxes for interest and parks, to the Treasurer of the City of St. Louis; and all collections for county and school taxes on property and licenses, except all county taxes for interest and parks, in St. Louis County, he shall pay to the present County Treas-

urer, until the Treasurer of said county is elected, as provided for in section 3; and when that officer has duly qualified, the present County Treasurer shall pay over to him all such collections for the use of said county, and from and after the time the County Treasurer of St. Louis County, as constituted by this Scheme, is elected and qualified, and during the continuance in office of said County Collector, he shall in like manner pay over all revenue collections, above mentioned, to the City and County Treasurers respectively. At the close of his term of office he shall effect a settlement with the city and county authorities, and shall account for all tax-bills placed in his possession, and shall turn over all uncollected bills in his possession, as follows: To the Comptroller all tax-bills on property within the city limits as herein established, and to the Clerk of the St. Louis County Court all tax-bills on property outside of city limits. The office of County Auditor, as it at present exists, is abolished, but that officer shall continue in office, and be responsible on his bond until all books, documents, moneys, and other property in his hands, or under his charge by virtue of his office, have been properly accounted for and turned over to the parties authorized by law to receive them. The assessment of property for the taxes of the year 1877 in the city as constituted by this Scheme, shall be made by the President of the Board of Assessors of the present County of St. Louis, in the manner provided by law; said President shall keep a separate set of books for the property in the city as now constituted, and for that in the enlarged limits of the city. As soon as the assessment books for the city and for the enlarged limits shall have been completed and corrected as required by law, they shall be turned over by said President with the other books and plats of his office to the proper officer of said city. After the assessment books have been corrected, the President of Assessors shall make out a fair copy of the same and shall make an abstract of said books, showing the amounts of the several kinds of property taxed, specifying: First, the amount of all property within the old limits of the City of St. Louis, second, the amount of value of all property within the new or extended limits, and outside the old limits, and add thereto his certificate that the same contains a true and correct list of all taxable property in the City of St. Louis, so far as he has been able to ascertain the same. Said abstract shall be verified by oath and delivered to the Mayor of St. Louis on or before the fourth Monday of June, 1877. As soon as the Assessor of St. Louis County shall be elected and qualified, the President of the Board of Assessors shall deliver to the said Assessor the books, plats, and all papers appertaining to the property of said county, as herein provided, and it shall be the duty of the Assessor of said County to assess the property of said county in the same manner as now provided by law for other counties of this State.

Sec. 9. County Court to transfer public buildings, moneys, etc., to City—employees to continue until, etc. - Mayor may retain or discharge appointees of Court.—It shall be the duty of the present County Court of St. Louis County to see that all buildings, moneys, and other property belonging to the county, which are placed under the control of the city under this Scheme, shall be formally and properly transferred. Said Court shall cause all records, books, papers, etc., now in the office of said Court to be turned over to the Register, who shall duly schedule same, and report the same for inspection of the Mayor. All employees and officers now in the service of the county in connection with public institutions or otherwise, under appointment of said Court, and within the limits of the City of St. Louis as herein established, shall continue in the discharge of their duties under the present rules and regulations until notified to the contrary by the Mayor of the city, who shall have authority to retain or for

unfitness discharge such as he may deem necessary and to fill any vacancies that may occur, until the Municipal Assembly can provide by ordinance for the government of such institutions and regulations of such service.

The mayor, under this section, had power to remove or suspend, pending the period of doubt as to the adoption of the Scheme and Charter: *Howard vs. St. Louis*, 88 Mo. 656, 660.

Sec. 10. Title to public buildings, parks, etc., transferred to City—assumption of County debt by City.—All the public buildings, institutions, public parks, and property of every character and description heretofore owned and controlled by the County of St. Louis, within the limits as extended, including the Court-house, the County Jail, the Insane Asylum and the Poor-house, are hereby transferred and made over to the City of St. Louis, and all the right, title and interest of the County of St. Louis in said property, and in all public roads and highways within the enlarged limits, is hereby vested in the City of St. Louis, and divested out of the County; and in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, the city hereby assumes the whole of the existing county debt, and the entire park tax; and the Municipal Assembly shall, as soon as practicable after the adoption of this Scheme and Charter, provide by ordinance for the management of the property and public institutions hereby placed under its charge.

Cited in *St. Louis vs. W. U. Tel. Co.*, 149 U. S. loc. cit. 469. Title to public property under this section passed to the city: *St. Louis vs. Ry.*, 114 Mo. 1. c. 20.

The insane asylum is a private institution belonging to and controlled by the City of St. Louis, and is not included under the general statutes as one of the State eleemosynary institutions: *State vs. Selbert* 123 Mo. 424, 429. See Charter provisions as to insane: Art. III, Sec. 26, Clause 3; Art. XII, Sec. 5. Ordinances, Rev. C., Sec. 747 *et seq.*

Under section 10 of the Scheme the Building Com'r and not the Criminal Court appoints the janitor: *State ex rel. vs. Smith*, 82 Mo. 51.

Sec. 11. Municipal Assembly to provide for payment of county debt.—The Municipal Assembly shall from time to time make provision by ordinance for the payment of the county debt, and interest thereon, as the same matures, and in all respects said debt shall be considered a city debt, and shall be transferred to the books of the city, and embraced in all official statements of its funded liabilities.

Sec. 12. City officers to qualify under Charter—election of Municipal Assembly—City offices to be filled in April, 1877.—Until provision is made by ordinance for carrying out the provisions of the preceding sections, and until the officers provided for under the Charter framed and adopted by this Board are elected and qualified, and after this Scheme and the Charter framed hereunder go into operation, the present city officers shall qualify under such Charter, and perform all the duties and exercise the powers of their office under such Charter, except as otherwise provided in this Scheme and Charter, and under the ordinances of the city not inconsistent therewith, within the enlarged city limits. For the purpose of electing a Municipal Assembly under such Charter, an election for members of the Municipal Assembly shall be held at the same time as the general State election to be held in November, 1876, and the term of office of the members of said Assembly shall continue for the same time and on the same condition as if the same commenced after the city election in April, 1877, as provided for in such Charter: *Provided*, That in case of a vacancy in the office of the Mayor, the present Comptroller of the city shall be authorized to act and shall act as such Mayor until such vacancies shall be filled as provided in the Charter framed under this Scheme; and *provided further*, That

all city offices, except the Municipal Assembly and such offices whose incumbents are specifically continued in office till the expiration of their term by this Scheme and Charter, and all appointive offices of the city or of any of its departments, shall be vacant from and after the city election provided for in the Charter, to be held in April, 1877, and shall be filled by the officers then elected, and by appointments by the Mayor and officers then elected, as in such Charter prescribed.

Sec. 13. Board of Finance and its duties—term of County Treasurer ceases, when—tax collections for school purposes—debts due County payable to City.—A Board of Finance is hereby created, to consist of the Mayor and Comptroller of the City of St. Louis and the Justices of the County Court from the Fifth and Sixth Districts of St. Louis County, whose duty it shall be, immediately after this Scheme goes into operation, to examine and verify the county indebtedness, as the same existed at the time this Scheme went into operation, on the books of the county, as to bonds and all other claims, and to ascertain and declare the amount necessary for the payment of the current expenses of the county to such time, and to ascertain the balance of cash, after deducting the amount necessary for the payment of such current expenses, in the hands of the County Treasurer and the source whence derived. And all collections made on account of taxes for interest and the parks, and that portion of said balance which was collected for general purposes within the extended city limits, shall be paid into the City Treasury; and that portion which was collected for general purposes within the County of St. Louis, as constituted by this Scheme, shall be paid into the treasury of said county; and the same course shall be pursued with reference to all moneys coming into the hands of the present County Treasurer after this Scheme shall go into operation. The term of the present County Treasurer shall cease when the Treasurer for the County of St. Louis, as herein constituted, shall have been elected and qualified. The County Auditor shall properly account for all school moneys for which he is in any way responsible to the proper authorities, and all tax collections for school purposes, made either by the City or County of St. Louis for the present or any other year, shall be applied only to the support of public schools. All debts and obligations due or payable, or belonging to the present County of St. Louis, shall be considered due and payable to the City of St. Louis; and the right to sue for and to adjust and collect same, or any part thereof, shall be vested in said city. The amount above ascertained for the payment of current expenses shall be paid in the manner provided by law out of the sum above reserved for such purpose.

Sec. 14. Metropolitan Police.—The Metropolitan Police force of the City of St. Louis, as now established by law, shall be maintained at the cost of the City of St. Louis: *Provided, however,* That the Metropolitan Police of the City of St. Louis shall have the same power and jurisdiction in the County of St. Louis, as constituted by this Scheme, as now provided by law: *Provided,* That upon a petition of the County Court of St. Louis County the Board of Police Commissioners shall appoint and equip not more than twenty policemen, as provided in the act approved March 13, 1867, for duty in said county. The cost of equipping and maintaining said police shall be paid by the county as herein established.

Charter Provisions concerning Police: See Charter, Art. III, Sec. 26, Clause 2; (and see note thereto); Art. XVI, Secs. 16, 14; State law now controls, *as to* which see same *ante* pp. 174 to 182, "Laws Applicable to St. Louis," Secs. 427-457 and notations. Sec. 14 of the Scheme in so far as it purports to confer power or jurisdiction on the city police to act in the County of St. Louis, is superseded and annulled by the metropolitan police act of 1899, and the police force of the city have no authority to act as such in the county: State ex rel. vs. Stobie, 194 Mo. 14, (Marshall and Valliant, JJ., dissenting).

Sec. 15. Justices of the Peace and Constables—bonds of Constables and Notaries.—Until otherwise provided by law, all the present Justices of the Peace and Constables shall hold their offices until the expiration of their present terms, and only such Justices and Constables shall be elected in November, 1876, as may be necessary to fill vacancies. All commissions of Justices of the Peace and Constables elected in the City of St. Louis shall be issued by the Mayor, and a record thereof kept by the City Register. All bonds of Constables, and of all Notaries Public appointed, shall be approved by the Mayor, and a record of the same shall be kept in said Register's office.

It being at first supposed that the adoption of the Scheme and Charter were defeated, the act of the county court in approving a constable's bond in the interim was validated by the *de facto* principle: *Schaeffer vs. Bernero*, 11 Mo. App. 562, 564.

Approval of Constables' bonds: See Rev. Code, section 1506 and 1678.

As to Justice of the Peace and Constables generally, in St. Louis, see "Laws Specially Applicable to St. Louis," sections 173-204; also Rev. Code, secs. 1324-1328.

Sec. 16. City and county surveyors.—The Mayor of the City of St. Louis, with the approval of the Council, may appoint any number of competent persons, being civil engineers, as City Surveyors, whose duties and powers shall be as now provided by law in regard to County Surveyors; but all applicants shall produce satisfactory testimonials of good character and competency, and when appointed shall give bond in the sum now required by law from surveyors in St. Louis County, and the County Court of St. Louis may appoint County Surveyors under the same restrictions. The present County Surveyors, commissioned by the County Court under an act entitled "An act to amend chapter 27 of the General Statutes of Missouri relating to County Surveyors," approved March 25, 1872, may continue in authority and in discharge of their present duties in the City and County of St. Louis until the expiration of the commissions held by them respectively, and the said City Surveyors shall have power to execute in the County of St. Louis all orders of the Circuit Court of the Eighth Judicial Circuit, as they were authorized to do before this Scheme went into operation.

Ordinances as to City Surveyors: Rev. C., Ch. 2, Secs. 235-238.

Sec. 17. Notaries Public.—All Notaries Public now commissioned by the Governor for St. Louis County shall exercise the official powers and duties of such office within the City and County of St. Louis, as constituted by this Scheme, and the City Register shall keep a complete record of all Notaries acting within the City of St. Louis, and of their bonds and the dates of their commissions, and of the expiration thereof.

Sec. 18. Powers of Sheriffs of City and County—duties of City Marshal.—The Sheriff of the City of St. Louis shall, within the limits of said city, exercise the authority now vested by law in the Sheriff of the County of St. Louis, and after this Scheme shall go into operation, all writs and other process which are now by law provided to be executed by the Sheriff of the County of St. Louis, within the city limits, shall be directed to and executed by the Sheriff of the City of St. Louis. The City Marshal, after this Scheme goes into operation, in addition to the duties now required by law to be performed by him, shall, within the city limits, exercise the same power and perform the same duties as are now provided by law in regard to the County Marshal. And the Sheriff of St. Louis County shall execute all process directed or delivered to him by any court of record of the County of St. Louis, as are now established by law.

Sheriff: See Charter, Art. 4, sec. 1 note; deputies of marshal and sheriff: Charter IV, sec. 14. Ordinances as to marshal see R. C., Chap. 13, Art. 5, secs. 1329-1333.

As to whether sheriff is state or city officer see note to Charter, Art. 1V, sec. 43.

Sec. 19. Judges of Election for November, 1876—returns, etc.—The Judges of the Election for State and other officers to be held in November, 1876, and for officers of the city and county as provided in this Scheme, shall be appointed as now provided by law, and the same Judges shall act in the election for city and county officers at such November election, 1876, and the returns shall be made to the clerk of the present County Court, who shall officially certify to the result; and in the event of any neglect or failure on the part of said County Court, or any officer of the city or county, to order and arrange for the election herein provided, the St. Louis Court of Appeals, or any Judge thereof, may cause the same to be done, and may in such event appoint Judges and take all other steps necessary to insure the holding of said election in the manner contemplated herein.

Sec. 20. Public officers to assist in carrying out Scheme.—It shall be the duty of all existing officers of St. Louis City and County to assist in carrying out the provisions of this Scheme, so far as any official act is necessary for that purpose; and in all cases in which said officers are continued in office under this Scheme, their duties and compensation shall be the same as are now provided by law.

Sec. 21. City may hold real estate in county.—The City of St. Louis may purchase, take and hold real estate in the County of St. Louis for the use of the city.

St. Louis may hold property outside city limits, etc. Charter, Art. I, Sec. 1; and note thereto.

Sec. 22. Salaries of judicial officers.—Until otherwise provided by law, the salaries of all the judges of courts now paid out of the County Treasury, and of all judicial officers not affected by the operation of this Scheme, shall be paid proportionately by the City and County of St. Louis, according to the aggregate of taxable values in each; and to carry out this section the Municipal Assembly shall annually provide for paying such expenses, and it shall be the duty of the County Court of said county, and a binding obligation thereon, to pay into the City Treasury annually an amount equal to the proportion of the expenses herein indicated; and the officers of said city may make any temporary arrangement necessary to carry out the provisions of this section, until the Municipal Assembly can regulate the subject by ordinance.

Sec. 23. Tax bills on property intersected by city limits.—Immediately after this Scheme goes into operation, the present State and County Collector of Revenue shall turn over to the President of the Board of Assessors all the tax-bills then in his hands that apply to lots or parcels of land which shall have become intersected by the new city limits line, for which bills the said President shall return him a detailed receipt, to be held by him (the Collector) as his sufficient voucher, against the corresponding tax amounts for which he may stand charged; and the said President shall proceed at once to make, in lieu of the bills received, new bills, whereon the amounts of taxes shall be separated in the proportion of quality and value of land, or land and improvements, respectively lying within and without the newly established city limits, to the end that the taxes distributable to the county and those distributable to the city shall all be represented by separate bills. The new bills thus ordered when completed by the said President, shall be by him delivered to the Comptroller to be examined and stamped, and they shall next, with the least practicable delay, be returned by the Comptroller to the Collector for col-

lection. The old tax-bills herein above named shall likewise be by the President surrendered to the Comptroller, who shall cancel them.

Sec. 24. Authority of County Court conferred on Municipal Assembly.—The Municipal Assembly shall have power within the city of St. Louis to do all acts and perform all functions not otherwise provided for in this Charter and not inconsistent with its terms, which have heretofore been done and performed by the County Court of the County of St. Louis.

Section cited: *Kenefick vs. St. Louis*, 127 Mo. 1, 9.

Sec. 25. Admission to Poor-house, Insane Asylum, etc.—Until the County of St. Louis, as organized by this Scheme, shall otherwise provide, the County Court thereof shall be authorized to send the paupers of said county to the Poor-house, or County Farm, now in use, and the insane paupers of said county to the Insane Asylum now in use, and for the maintenance of such paupers shall pay to the Treasurer of the city the cost of maintaining paupers in those institutions, to be ascertained by the annual reports of the same.

As to insane asylum see Rev. Code, Secs. 753, 747 and references in notes thereto.

As to poorhouse see R. C., Sec. 773 and note.

Sec. 26. Prosecuting Attorneys and Clerks of Eighth Judicial District continued in office.—The Circuit Attorney and Assistant Circuit Attorney for the Eighth Judicial Circuit, the Prosecuting Attorney, the Assistant Prosecuting Attorney, and the Clerk of the St. Louis Court of Criminal Correction, and the Clerk of the St. Louis Criminal Court, shall continue to hold their offices and discharge the duties thereof, as now provided by law, until the expiration of their respective terms of office, and until their successors are duly elected and qualified.

Sec. 27. Grand Jury, how selected and summoned.—After this Scheme goes into operation, and until otherwise provided by law, the Grand Jury of the Eighth Judicial Circuit shall be selected by the Judge of the St. Louis Criminal Court from the City and County of St. Louis, and shall be summoned by the Marshal of the City of St. Louis.

Selection, etc., of Grand Jury: See R. S. 1899, Secs. 6569-6570. (Set out herein *ante*, p. 113 under "Laws Specially Applicable to St. L." Secs. 171-172.)

Sec. 28. Grand Jury, how paid.—All members of Grand Juries selected from the City of St. Louis shall be paid out of the City Treasury, and those from the County of St. Louis shall be paid out of the County Treasury. All payments shall be upon certificates of the Clerk of the St. Louis Criminal Court.

Pay of Grand Jurors: See Rev. Code, Sec. 1335.

Sec. 29. Costs in criminal cases.—In the criminal cases occurring in the City of St. Louis, in which, by the law in force prior to this Scheme going into operation, the County of St. Louis was liable to pay costs, such costs shall, after that time, be paid out of the City Treasury, and in like cases occurring in the County of St. Louis, shall be paid out of the Treasury of the County of St. Louis.

Sec. 30. Petit Jurors—how selected and summoned—Jury Commissioner to continue in office.—Petit jurors to serve in the Circuit Court of the Eighth Judicial Circuit, in the St. Louis Criminal

Court and in the St. Louis Court of Criminal Correction, shall, until otherwise provided, be selected and summoned as now provided by law, except that jurors for the said Circuit Court shall be summoned by the Sheriff of the City of St. Louis, and jurors to serve in the said other two courts shall be summoned by the Marshal of the City of St. Louis. And the act to provide a jury system in St. Louis County, approved March 3rd, 1857, and the acts amendatory thereof, shall remain in force until altered or repealed, and the present Jury Commissioner of St. Louis County shall remain in office until the expiration of his official term, and perform all the duties now required of him by law.

Jury Commissioner, summoning petit jury, etc.; See R. S. 1899, Secs. 6539-6570. (Set out herein *ante* pages 106 to 113, under Laws Spec. Applicable to St. Louis, Secs. 140-172.) Ordinance on Jury Com'r, see R. C., Sec. 1334.

Sec. 31. Petit Jurors—how paid.—For all services of petit jurors rendered in the Circuit Court of the Eighth Judicial Circuit, they shall be paid out of the City Treasury, and for all such services rendered by citizens of St. Louis, in the St. Louis Criminal Court and the St. Louis Court of Criminal Correction, they shall be paid out of the City Treasury, and for all such services rendered in the last mentioned courts by citizens of St. Louis County, they shall be paid out of the County Treasury.

Pay of Petit Jurors: R. S. 1899, Sec. 6562, set out herein *ante* page 112, "Laws Specially Applicable to St. L.," Sec. 163; Ordinances, see R. C., Secs. 1335, 2412; in police court, see R. C., Sec. 1297.

Sec. 32. Collections payable into City Treasury—payments into County Treasury—appropriations by Municipal Assembly.—In all cases where, according to the laws in force up to the time when this Scheme shall go into operation, any public officer or other person was required to pay any money coming into his hands from any source whatever into the County Treasury of St. Louis County, and where it is not otherwise provided in this Scheme, or the Charter framed under it, such officer or person shall, after the time aforesaid, pay all such money into the Treasury of the City of St. Louis, at or within such times as he was theretofore required to pay the same into the County Treasury; and if no time shall be prescribed by law for any such payments, then he shall pay the same monthly on the first Monday of each month, into said City Treasury, and shall take triplicate receipts therefor, stating the account on which such payment was made, one of which he shall file in the City Auditor's office, and one with the Comptroller, who shall charge the Treasurer with the amount so paid; and the said Auditor and Treasurer shall keep accounts showing the account on which such payments were made and the source from which the money was derived. All such money shall be applied and used for the purposes for which it was collected, or for which it is made applicable by law, and in all cases when such money is not set apart or appropriated by law for specific purposes, the Municipal Assembly of the city may appropriate it to such municipal uses as it may deem proper: *Provided, however*, That all fines, penalties and forfeitures collected or accruing in the County of St. Louis, or on account of said county or the people thereof, shall be paid in the manner and at times aforesaid into the County Treasury of said county, and duplicate receipts shall be taken as aforesaid by the officer or person paying the same, one of which he shall file with the County Clerk of said county, who shall charge the Treasurer with the amount so paid, and such money shall be appropriated and used as it is or may be provided by law; *and provided, further*, That if any public officer or other person shall, at the time this Scheme goes into operation, be in default in the payment of any

such money into the said County Treasury, he shall immediately pay the same into the said City Treasury in the manner aforesaid, and the same shall be disposed of as herein provided.

Sec. 33. Power of former County Collector vested in Sheriff of County.—All powers heretofore vested in the Collector of the County of St. Louis, and all duties required to be performed by him in reference to taxes on property situated outside of the limits of the City of St. Louis, as enlarged, and in reference to the sale of such property for taxes and the redemption thereof, shall, after the election and qualification of the Sheriff of the County of St. Louis, as provided by this Scheme, be executed and performed by such Sheriff; and all deeds for the sale of land for taxes made by him shall be acknowledged before the Clerk of the County Court of St. Louis County.

See Webster vs. Smith, 78 Mo. 163, 165.

Sec. 34. Authority of municipal assembly as to revenue.—The Municipal Assembly shall have power to enact all ordinances that may be necessary to carry into execution the laws relating to State, county, city and other revenue within the city of St. Louis, as enlarged; and such powers as are now vested by law in the County Court of St. Louis County, or the Clerk of said Court, or the County Collector and Auditor, may be exercised by such tribunals and officers as may be provided by ordinance.

Sec. 35. Regulations as to animals running at large.—It shall be unlawful for any domestic animal of the species of horse, cattle, mule, ass, swine, sheep or goat to be suffered to run at large, by the owner thereof, in the City or County of St. Louis; and if any such animal be found running at large in said city or county after this Scheme and Charter go into operation, it shall be lawful for any person to take up and restrain the same forthwith; and such person shall, within three days after so taking up and restraining such animal, give notice thereof to the owner, if known, and thereupon such owner shall pay a reasonable compensation for taking up, keeping and feeding such animal, and for damages actually caused by such animal. If the owner be not known, or fails to make such reasonable compensation after being notified, any animal so taken up shall be deemed an estray, and may be proceeded against by the taker up thereof, in the manner provided by law in regard to strays: *Provided, however,* That this section shall not be so construed as to prohibit any person from driving, herding and guarding such stock upon the unclosed lands belonging to said County, the State, or the United States.

See note and references to Chapter 2 of Laws Specially Applicable to St. Louis, Secs. 4-11, *ante* pp. 79-81; and for ordinances see R. C., Secs. 1576-1578 and notes.

Sec. 36. School districts intersected by city limits.—In all cases where the limits of the City of St. Louis as herein extended, include a part only of any school district, the following shall be the mode of adjustment as to property held by or for the use or benefit of such district: First, where the part of such district, included within such extended limits, contains any school-house or other real estate belonging to the district, the Board of President and Directors of the St. Louis Public Schools shall pay into the County Treasury of St. Louis County, for the use of that part of the district not so included, such proportion of the valuation of said school property as the taxable value of property in the part of such district not so included bears to the taxable value of all property in such district, as constituted before such extension. Second,

where the part of such district, not included within such extended limits, contains any school-house or other real estate belonging to the district, the inhabitants of the district not so included shall pay to the Board of President and Directors of the St. Louis Public Schools such proportion of the valuation of said school property as the taxable value of property in the part of such district included within the city limits bears to the taxable value of all property in such district, as constituted before such extension. The valuation of school property mentioned in this section shall be made by arbitrators, one of whom shall be selected by the Board of President and Directors of the St. Louis Public Schools, and one by the Directors of the school district affected, who, if disagreeing, may select a third; or, if unable to agree on the selection of such third arbitrator, any School Director, or member of the Board of President and Directors of the St. Louis Public Schools, may apply to the Circuit Court of the Eighth Judicial Circuit to appoint one. A report of the valuation made by such arbitrators, or a majority thereof, shall be filed as soon as practicable in the Clerk's office of the Circuit Court of the Eighth Judicial Circuit. Any money to be paid to the Board of President and Directors of the St. Louis Public Schools shall be provided for by the assessment, levy and collection of a special tax on all taxable property within such districts not so included.

Sec. 37. School property transferred to St. Louis public schools.—All property, real, personal or mixed, of every kind and description, and the evidence of title thereto, now held by the County of St. Louis, or by the County Court of St. Louis County, in trust or for the use of the inhabitants of township forty-five north, of range seven east, for school purposes, and all such property, and the evidences of title thereto, held by any public officer for the use of any school district in said township, or held by or for the benefit of any such district, shall, as soon as this Scheme goes into effect, pass and be delivered to the Board of President and Directors of the St. Louis Public Schools; and the title to any and all such property shall, by operation hereof, vest in said Board.

School property is now controlled and vested in the Board of Education of St. Louis: Rev. St. 1899, Secs. 9919 *et seq.* set out in "Laws Specially Applicable to St. Louis," *ante* p. 191, Secs. 499 *et seq.* As to Charter provisions see Art. XIII.

Sec. 38. Enumeration of children within school age—division of school property.—The Board of President and Directors of the St. Louis Public Schools shall, forthwith after this Scheme goes into effect, cause an enumeration to be taken of all children within school ages within the limits of the City of St. Louis, as herein established, and the County Court of St. Louis County shall cause forthwith a similar enumeration to be taken within the County of St. Louis, outside of the city limits, as herein established, showing the enumeration in each school district and fractional school district separately, a correct report of which enumeration shall be filed by said Board and said court respectively, in the Clerk's office of the Circuit Court of the Eighth Judicial Circuit, within sixty days after this Scheme and Charter go into operation. So much of all property of every nature whatsoever, and the evidences thereof, belonging to the school fund of St. Louis County, or of Congressional townships affected by the extension of the present city limits, as, according to such enumeration, falls to the share of the district lying within the limits of the City of St. Louis, shall at once pass and be delivered by the County Court of St. Louis County, or public officers in charge thereof, to the Board of President and Directors of the St. Louis Public Schools, and the residue of all said property and the evidences thereof shall pass and be delivered by

the present County Court of St. Louis County, or public officers in charge thereof, to the proper authorities of the County of St. Louis, as constituted by this Scheme. From and after the date this Scheme goes into operation all public officers within the City of St. Louis shall account for and pay over to the Board of President and Directors of the St. Louis Public Schools, all fines and penalties and other moneys collected within said city, and heretofore payable into and forming part of the County School Fund of St. Louis County.

Distribution of school funds on separation of city from county see State to use vs. Rechtien, 7 Mo. App. 339.

Sec. 39. **Expenses of board of freeholders.**—All claims for the printing, clerk hire and other expenses of this Board of Freeholders shall be made out and certified to by the President of the Board immediately after the adjournment of this Board, and such claims, so certified, shall, as soon as this Scheme and the Charter framed thereunder are adopted, be paid by the Treasurer of the present County of St. Louis out of the general revenue of said county, and such payments shall be allowed to said Treasurer in the settlement of his accounts as provided for in this Scheme.

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CHARTER
OF THE
CITY OF ST. LOUIS.
(ANNOTATED.)

Charter of the City of St. Louis.*

- ARTICLE I. Corporate powers, boundaries and wards.
 II. Election and registration.
 III. Legislative department.
 IV. Executive and administrative department.
 V. Revenue and taxation.
 VI. Public improvements—street openings.
 VII. Water works.
 VIII. Public parks.
 IX. Harbor and wharf department.
 X. Street railroads.
 XI. Fire department.
 XII. Health Department.
 XIII. Schools.
 XIV. Sinking Fund.
 XV. Public printing.
 XVI. Miscellaneous provisions.

* INTRODUCTORY NOTE.

GENERAL CONSIDERATIONS RESPECTING THE CHARTER.

The Scheme and Charter of St. Louis City was framed by a board of freeholders in pursuance of the provisions of Art. IX, Secs. 20 to 25, of the State Constitution of 1875, and was adopted by the people at an election held on August 22, 1876; it became the organic law of the city and county sixty days thereafter (Oct. 22, 1876), and all former charters and special laws of St. Louis County were superseded. State ex rel. vs. Finn, 4 Mo. App. 347, 356; State ex rel. vs. Mason, 4 Mo. App. 377; Badgeley vs. St. Louis, 149 Mo. 122, 129; St. Louis vs. Fischer, 167 Mo. 654, 660; State ex rel. vs. Sutton, 3 Mo. App. 388 (deciding the question whether the adoption had actually been carried); State ex rel. vs. St. Louis, 174 Mo. 1. c. 140; Northcut vs. Eager, 132 Mo. 1. c. 273.

The separation of the city and county did not relieve St. Louis from the operation of such laws specially applicable to St. Louis County as were then in force and consistent with the altered circumstances: Eichelmann vs. Weiss, 7 Mo. App. 87, 89 (sheriffs' and marshals' act). The constitution limits the displacement to "special laws relating to St. Louis County inconsistent with such Scheme," Const., Art IX, Sec. 20. But in all other respects the city became independent of the county, and is a city proper, though in some respects performing the functions of a county: State ex rel. vs. Walsh, 69 Mo. 408. As to how far the city is to be treated as a county see *infra*, this note.

The City of St. Louis is not in any class with other cities, and it is not affected by legislation applicable to cities of the first-class as defined in the Constitution, because the St. Louis Charter is itself enacted in pursuance of a special constitutional provision, and does not fall under any classification: State ex rel. vs. Mason, 155 Mo. 486, 501 (overruling Murnane vs. St. Louis, 123 Mo. 479, and St. Louis vs. Dorr, 145 Mo. 423, and adopting the dissenting opinions in those cases); State ex rel. vs. Hawes, 153 Mo. 23, 52; Kansas City vs. Stegmiller, 151 Mo. 189, 204; St. Louis vs. Bircher, 76 Mo. 431.

The City of St. Louis derives its charter in pursuance of constitutional provisions, and the powers delegated therein are conferred by the state upon the municipality, and so long as they are not inconsistent with the constitution and laws of the state they are valid and binding upon all who come within the scope of their authority or operation: St. Louis vs. Liessing, 190 Mo. 464, 480; St. Louis vs. W. U. Tel. Co., 149 U. S. 465, 467; Kansas City vs. Oil Co., 140 Mo. 458, 471; Grand Ave. Ry. Co. vs. Citizens' Ry. Co., 148 Mo. 665, 671.

The charter so conferred and adopted has all the force and effect of a legislative charter largely delegating the state power upon the city, and such delegation of power is no infringement of the maxim that legislative power cannot be delegated: *Sluder vs. Transit Co.*, 189 Mo. 107, 128; *Meier vs. St. Louis*, 180 Mo. 391, 409; *St. Louis vs. Fischer*, 167 Mo. 654, 660-661 (affirmed 194 U. S. 361); *State ex rel. vs. Lindell Ry.*, 151 Mo. 162, 182.

As to the force and effect of ordinances as legislative enactments, see further, note to Art. III (introductory to Sec. 26 thereof) and note to Art. III, Sec. 12.

But the charter of a city cannot confer on it the power of the State concerning such things as are without the scope of municipal government, and not incidental to municipal functions; these are reserved to the State unless expressly conferred by the Legislature: *State ex rel. vs. Telephone Co.*, 189 Mo. 83 (holding that Kansas City could not enforce a regulation as to telephone rates, expressly given in the charter. That such power to fix rates did not exist under the St. Louis charter see *St. Louis vs. Bell Telephone*, 96 Mo. 623; see also ordinance of St. Louis attempting to reserve the right to fix charges, R. C., Sec. 1195 and note, also see note to Sec. 1093); *State ex rel. vs. Police Com'rs*, 184 Mo. 109 (holding that the Kansas City charter could not confer powers respecting employment or discharge of policemen not in accord with the state; as to the St. Louis police act see *State ex rel. vs. Stobie*, 92 So. West. 191, s. c. 194 Mo. 14).

And the charter must always be in harmony with the Constitution and laws of the state: See cases heretofore and hereinbelow cited; also *State ex rel. vs. Telephone Co.*, 189 Mo. 83; *State ex rel. vs. Police Com'rs*, 184 Mo. 109; *Ewing vs. Hoblitzelle*, 85 Mo. 64, loc. cit. 76 (discussing the objects in view in adopting the St. Louis charter); *State ex rel. vs. Lindell Ry.*, 151 Mo. l. c. 182 (same); *State ex rel. vs. Stobie*, 194 Mo. 14, s. c. 92 Southw. 191 (see discussion as to St. Louis Scheme and Charter in both majority and dissenting opinions).

Hence, and also because the power of the legislature to supersede or modify the charter or ordinance provisions exists, it follows that when the ordinances or charter provisions are, or become, in conflict with prior or subsequent state statutes, or state policy, or with the constitution, such ordinances or charter provisions are, or become, void, and must yield to the higher law: *State ex rel. vs. Stobie*, 92 Southw. (Feb. 26, 1906), 191, 200; s. c. 194 Mo. 14, (holding a provision in the Scheme repealed by the police act); *St. Louis vs. Meyer*, 185 Mo. 583; *State ex rel. vs. Police Com'rs*, *supra*; *Badgley vs. St. Louis*, 149 Mo. 122 (declaring a charter provision void as contrary to the code civil procedure); *Ford vs. Kansas City*, 181 Mo. 137; *State ex rel. vs. Railway*, 117 Mo. 1, 11-12; *Ewing vs. Hoblitzelle*, 85 Mo. 64, 76; *State ex rel. vs. Bell*, 119 Mo. 70, 75; *State ex rel. vs. Matthews*, 94 Mo. 117 (Scheme provision changed by statute).

But mere differences in details do not render such laws inharmonious, and the charter provisions are effective: *Kansas City vs. Oil Co.*, 140 Mo. 458, 471 (a decision frequently approved in later St. Louis cases; the court holds that "A constitutional provision authorizing a city like Kansas City or St. Louis to frame its own charter, implies the power to adopt a complete and harmonious system of local municipal government. . . . The charter . . . being a law for the government of the municipality, it is binding upon all courts, and it violates no principle of our government to say that the courts, when called upon, must enforce these municipal laws unless they conflict with the Constitution, and are not in harmony with the Constitution and laws, and, as already said, mere differences in detail do not render such laws inharmonious. . . . So long as the city . . . does not invade the province of general legislation or attempt to change the policy of the state as declared in her laws for the people at large, it will not be held to be out of harmony with such laws, notwithstanding the provisions of the special charter may be different from the general statutes prescribed for the government of other cities in their local affairs); to same effect: *St. Louis vs. Dorr*, 145 Mo. 466, 478 (to this extent this case has not been overruled); and see particularly *St. Louis vs. Delassus*, (Sup. Ct., July 2, 1907, not yet reported) fully discussing and sustaining the city's power to pass ordinances on subjects also covered by State statutes, though not identical therewith; also *State vs. Vic De Bar*, 58 Mo. 395 (showing to what extent the city was regarded as independent of state laws under the earlier decisions); and see discussion in *State vs. Kessels*, 120 Mo. App. l. c. 240, distinguishing the effect of the present constitution and the former one on the power of St. Louis to pass ordinances inconsistent with the state laws.

As to discussion of how far the city may enact ordinances declaring acts to be misdemeanors, where there are state enactments on the same point, and the effect of concurrent enactments by the city and state, see note to Rev. Code, sec. 1265 and cases there cited.

And the power of the city to tax is specifically recognized by the constitution: See note to Charter, Art. III, Sec. 26, Clause 5, and particularly note to Charter, Art. V, Sec. 1.

It may be added that while the absolute general power of the legislature to alter or destroy its municipalities or to change their boundaries, without consulting the wishes of the inhabitants, is unquestioned (*St. Louis vs. Russell*, 9 Mo. 503, 507; *McCormick vs. Ry.*, 20 Mo. App. 640 and cases cited; *Forsyth vs. Hammond*, 166 U. S. 506), yet it cannot be lawfully so exercised as to impair the obligations of contracts (such as bonds) previously entered into by such municipalities: *Graham vs. Folsom*, 200 U. S. 248; *St. Louis vs. Russell*, *supra* 1. c. 508.

Unauthorized Ordinances: And for like reasons an ordinance is void when it conflicts with the charter, or when it is not authorized by the charter, or enacted as the charter requires. All powers of the municipal assembly emanate from the charter and must find their support in it as the source of authority: See discussion of this subject and citation of cases in note introductory to Art. III, Sec. 26 (heading), of the Charter.

In some respects the charter bears the same relation to the ordinances that the constitution does to the statutes: *Quinette vs. St. Louis*, 76 Mo. 402, 404.

See for discussion of validity of ordinances "General Note on Ordinances" to Chart., Art. III, Sec. 12, and note to "Legislative Powers and Functions of Municipal Assembly" to Art. III, Sec. 26.

As to validity of acts of officers during the period when it was erroneously supposed the adoption of the Scheme and charter had been defeated, see: *Schaeffer vs. Bernero*, 11 Mo. App. 562; *Adams vs. Lindell*, 72 Mo. 198 adopting 5 Mo. App. 197; *State ex rel. vs. Sutton*, 3 Mo. App. 388; *St. Louis vs. Stoddard*, 15 Mo. App. 173.

Judicial and Public Notice: The constitution requires the courts to take judicial notice of the Charter and the city's incorporation. Const., Art. IX, sec. 21. *Barclay, J.*, in *Walsh vs. Mo. Pac. Ry.*, 102 Mo. 1. c. 589; *St. Louis vs. Lang*, 131 Mo. 412, 420. See also *State vs. Nolle*, 96 Mo. App. 524, 526.

The courts take judicial notice that St. Louis is the only city having 300,000 inhabitants: *State vs. Anslinger*, 171 Mo. 600, 610; *State ex rel. vs. Miller*, 100 Mo. 439, 450.

And that it is a separate political subdivision of the State: See *infra*.

The Charter is a Public Act of which all persons interested are bound to take notice: *Perkinson vs. St. Louis*, 4 Mo. App. 322, 1. c. 328.

The City of St. Louis is a political subdivision of the State of which the courts take judicial notice: (*State vs. Nolle*, 96 Mo. App. 524; *State ex rel. vs. Bus*, 135 Mo. 1. c. 337; *State ex rel. vs. Ry.*, 195 Mo. loc. cit. 241 and 246; see also *State ex rel. vs. Finn*, 4 Mo. App. 347); and hence all appeals in cases in which the city is a party go to the Supreme Court: See note to Charter, Art. XVI, Sec. 6.

That the public must take notice of the city ordinances as of other laws, but that the courts do not take judicial notice of ordinances and that they must be pleaded and proved as facts, is treated of in "General note on Ordinances," appended to Chart., Art. III, Sec. 12.

How Far the City is Treated as a County: The constitution provides that "the city as enlarged shall be entitled to the same representation in the General Assembly, collect the state revenue and perform all other functions in relation to the State, in the same manner, as if it were a county as in this Constitution defined," etc. (Const., Art. IX, sec. 23.) "The charter contains many provisions to define the mode in which the city should perform many essential governmental duties toward the state 'as if it were a county,' the city was practically put in the position of a county for the purposes of executing the functions of government in that locality; as those functions were to be performed by city officers, the Scheme and Charter undertook in the first instance to prescribe how, and by whom, those duties should be discharged. But matters of purely municipal and local concern the constitution intended to commit to local self-government, which the peculiar provisions in regard to St. Louis were designed to authorize": *St. Louis vs. Dorr*, 145 Mo. 466, 479.

The court-house is maintained not by virtue of the municipal functions of the city but in the performance of a county function in the sense of the consti-

tutional provision, and the relation of the city to the court-house is the same as the county to the court-house was before the separation: *Cunningham vs. St. Louis*, 96 Mo. 53. The City of St. Louis being for all necessary purposes a county in itself, the seat of justice of such quasi-county is the city itself, and not the court-house building, and a public office is located at the seat of justice when in the new city hall, though such locality was not part of the city when the court-house was originally erected: *Babcock vs. Hahn*, 175 Mo. 136, 140.

The City of St. Louis occupies the dual relation to the state of a county and of a city under its Scheme and Charter: *State ex rel. vs. Bell*, 119 Mo. 1. c. 73.

Though the city is not a "county" in the ordinary sense used in the Constitution, it is in a qualified sense a county, in that it is a "legal subdivision of the state" and performs the functions of a county: *State ex rel. vs. Finn*, 4 Mo. App. 347; to same effect *State ex rel. vs. Bus*, 135 Mo. 1. c. 337; *State ex rel. vs. Railway*, 195 Mo. loc. cit. 241, 246. But in all other respects the City as constituted by the Scheme of separation, is a city proper and not a county, and the St. Louis county laws do not apply to the city: *State ex rel. vs. Walsh*, 69 Mo. 408.

The Rev. St. 1899, Sec. 4160, subdiv. 19, provide that "whenever the word 'county' is used in any law, general in its character to, the whole State, the same shall be construed to include the City of St. Louis, unless such construction be inconsistent with the evident intent of such law or of some law specially applicable to such city." (See *Laws Spe. Applicable to St. Louis*, Sec. 373). This section referred to or applied in the following cases: *Henderson vs. Koenig*, 168 Mo. 1. c. 363; *St. Louis vs. Clabby*, 88 Mo. 573; *State ex rel. vs. Dillon*, 87 Mo. 487; *State ex rel. vs. Wilder*, 198 Mo. 1. c. 173; *Bank vs. Umrath*, 55 Mo. App. 1. c. 48. Rev. St. 1899, p. 2562, Sec. 1 (Art. XXV) provides that in certain cases moneys required to be paid out of the county treasuries shall in St. Louis be paid out of the city treasury; and Rev. St. 1899, Sec. 6536, enacts that respecting the statutes concerning Justices of the Peace and Constables, "so far as applicable said city shall be considered as a county;" and likewise a district in said city shall be held to be the same as a township in said chapter (Ch. 9).

In *State ex rel. vs. Dillon*, 87 Mo. 491, the court says: "St. Louis is not by name a county, nor within the limits of any county. It is, for many purposes, throughout the statutes, treated as a county," but the case holds that the chapter on election laws relating to state officers, which shall apply to St. Louis the "same as to counties," does not apply to those officers performing purely municipal functions, such as the mayor, and in the same case (p. 491) it is further said: "Many of the statutes are applied by the use of the word *county*. The general laws are in most cases designed to have and to take effect throughout the entire state. St. Louis, as we have seen, is not a county by name. Hence this paragraph, which is a part of the article of the general laws concerning the construction of statutes, declares that whenever the word *county* is used in any law, general in its character," etc.

Transfer of old county functions and offices to corresponding city functionaries under the Scheme and Charter. In addition to the constitutional and statutory provisions referred to in the preceding references pointing out how far and when the city is to be regarded as performing county functions, it may not be out of place to refer to other provisions of the law concerning the necessary transfer of the function formerly performed by the county officials upon corresponding new officials under the Scheme and Charter.

Thus the state statutes provide that "all laws requiring any officer of any county to perform any duty, service or trust, under the laws of this state, shall include all corresponding city officers named in the Charter and Scheme of separation for the government of the city and county of St. Louis": R. S. 1899, Misc. Prov., Art. XXV, p. 2562, Sec. 3.

And "any act or duty authorized or required to be performed by the clerk of the county court, such act or duty shall be performed by the Register of the said City of St. Louis, and the term 'county clerk' shall be construed to include the Register, so far as the same relates to any act or duty required to be performed in said city similar in character," etc. R. S. 1899, Sec. 4160, subd. 18; and "all laws providing for the performance of any duty, service or trust, by any county clerk, shall apply to the Register of the City of St. Louis, as if such officer was specially named in such law, acts or parts of acts." R. S. 1899, Art. XXV, p. 2562, Sec. 4 (see *State ex rel. vs. Tracy*, 94 Mo. 217; as to ordinances on Register see Rev. Code, Ch. 28, Secs. 2062-2069 and notes). So with respect to Justices of

the Peace and Constables, R. S. 1899, Sec. 6536, provides that the duties and services concerning them required (in Chap. 9 of the R. S.) of the county clerk shall be performed by the Register, and those by the County Court by the mayor (except in case of a tie or contested election; as to which see *State ex inf. vs. Kramer*, 150 Mo. 89).

Again: "All acts and parts of acts which provide for the performance of any duty or trust by any county court in this state, shall also include the Municipal Assembly and the Mayor and Comptroller of the City of St. Louis: R. S. 1899, Art. XXV, p. 2562, Sec. 2.

So in the Scheme, Sec. 24, it is provided that the Municipal Assembly performs all functions (not otherwise provided for in charter) which were formerly performed by the County Court (see 127 Mo. l. c. 9).

By Sec. 34 of the Scheme, powers then vested "in the County Court of St. Louis Co., or the clerk of said court, or the county collector or auditor, may be exercised by such tribunals or officers as may be provided by ordinance." sec. 18 provided for powers of sheriffs and marshal (see note to said section); also secs. 5 and 6 (see notes thereto). Other officers were similarly considered (see Scheme in general).

Respecting revenue and taxation, by the Charter, Sec. 34 of Art. V, the City Collector performs the duties with respect to the collection of the revenue formerly required by the County Collector (except as modified by statute: See note to said section). And Sec. 9334, R. S. 1899 (see Laws Specially Relating to St. Louis, Chapter 26, Sec. 469) is to the same effect. The following section (R. S., Sec. 9335; Laws Sp. Ap. St. L., Sec. 470) provides that the council [now municipal assembly] shall with reference to the assessing and collecting of revenue in the city do those things performed by the county court, where not otherwise provided for in the Scheme and Charter. So by the charter, Art. V, Sec. 29, the comptroller is substituted for the County Court in the general provisions respecting "land delinquent list," the "sale of land for taxes," and all other matters relating to the assessment books and tax bills. While Sec. 4 of Art. XVI of the charter requires the City Counsellor to perform the duties respecting street-opening cases which were looked after by the Land Commissioner prior to April 7, 1877. And as to collection of railroad taxes, R. S. 1899, Sec. 9383, says that "all services required to be performed by county officers under this article shall be performed in the City of St. Louis by the corresponding officers of the City of St. Louis, and wherever the word 'county' occurs it shall be construed to include the city."

Speaking of these kind of provisions the court in the case of *State ex rel. vs. Powers*, 68 Mo. l. c. 324, said: "As the city government, authorized by the constitution for the City of St. Louis, is entirely different in its organization from that of the county . . . it became necessary to provide in the charter the requisite municipal agencies . . . Proper officials were to be designated, the mode of their selection prescribed, and the duties which were previously performed by the officials designated in the general law were, by express enactment, to be imposed upon them," etc. See on this point (taxation) note to Charter, Art. V, Sec. 1; Laws Spec. Appl. to St. Louis, notes to Chapter 26.

So in *State ex rel. vs. Bus*, 135 Mo. l. c. 337, considering whether certain officers performed state, city or county functions the court says: "While the City of St. Louis is strictly a municipal corporation its territory is also a subdivision of the state, in which officers are elected to perform the functions of the state government as distinguished from those pertaining to municipal government. Those officers are in no sense municipal officers. Their designation as officers of the City of St. Louis refers to their territorial jurisdiction rather than the governmental duties they perform. They are officers under the laws of the state and perform their duties within the city limits."

Construction of Charter and Ordinance Provisions, see discussion in introductory note to Charter, in Art. III, Sec. 26 and citations there made.

ARTICLE I.

CORPORATE POWERS, BOUNDARIES AND WARDS.

SECTION.

1. Corporate name and powers—authority to purchase, hold and dispose of property—to receive bequests, etc., and have a common seal.

SECTION.

2. Corporate limits and boundaries.
3. Ward boundaries.
4. Correction of ward limits and permanent division lines.

Section 1. Corporate name and powers—authority to purchase, hold and dispose of property—to receive bequests, etc., and have a common seal.—The inhabitants of all that district of country embraced within the limits prescribed in the next succeeding section, shall be and continue a body corporate by the name and style of “The City of St. Louis,” and by that name shall have perpetual succession, shall sue and be sued, implead and be impleaded, defend and be defended in all courts of law and equity, and in all actions whatsoever; may purchase, receive and hold property, real or personal, within said city, and beyond the limits of the city, to be used for the burial of the dead of the city, for the erection of waterworks to supply the city with water, for the establishment and erection of gasworks to supply the city with light, for the establishment of a hospital or hospitals for the reception of persons infected with contagious or other diseases, for a poor house or poor houses, work house, house of correction, or for any other purposes; may sell, lease or otherwise dispose of any property for the benefit of the city; may receive bequests, gifts and donations, of all kinds of property, within or without the city, in fee simple or in trust, for charitable or other purposes, and do all acts necessary to carry out the purposes of such bequests, gifts and donations, with power to manage, sell, lease or otherwise dispose of the same; and may have and use a common seal, and may break; change or alter the same at pleasure.

Powers of City: As a municipal corporation the city has in general these powers and no others: Those expressly granted, those necessarily or fairly implied in or incident thereto, and those essential to the declared objects of the corporation—not simply convenient, but indispensable; and a fair doubt as to the existence of the power is resolved against the corporation: See on this subject authorities and discussion in note to heading of Art. III, Sec. 26 of the Charter.

And as to the legislative functions of the city, and to what extent the courts will review the same on the ground of fraud, oppression or unreasonableness, and the validity of ordinances see same note (under Art. III, Sec. 26, heading).

Authority to Purchase, Hold and Dispose of Property: City may hold, purchase, etc., real estate in the county for the city's use: Scheme, Sec. 21; Power to “purchase, rent or lease in the city or elsewhere, any real or personal property, and to control, manage, sell or lease or otherwise dispose of same,” etc. see Chart., Art. III, Sec. 26, clause 14. And as to power to sell or lease parks: Art. VIII, Sec. 4. Supplying water outside city limits: See R. S. 1899, Secs. 6488-6491. The city may take and hold real or personal property: *Christy vs. St. Louis*, 20 Mo. 143, 145.

The city may acquire and hold such property beyond the limits of the city as may be proper for its purposes; and such right was not limited strictly to the specific purposes enumerated in the charter (prior to the present charter); and no one but the State can question the city's power: *Chambers vs. St. Louis*, 29 Mo. 543; *Hafner vs. St. Louis*, 161 Mo. 34.

The city has ample authority to build and maintain a bridge across the Mississippi, although part of such bridge must necessarily be outside the limits of the city and State, and, it seems, may condemn property for that purpose in Illi-

nois: Haeussler vs. St. Louis, decided in Supreme Court Missouri in banc, July 2, 1907 (not yet reported).

Ample power is conferred on the city to deal with and dispose of property to which the absolute title has been bought by the city: *State ex rel. vs. Schweickardt*, 109 Mo. 1. c. 508-509.

The City of St. Louis has a fee simple title to its commons and may under its charter pass such title to a purchaser: *Woodson vs. Skinner*, 22 Mo. 13. See also *St. Louis vs. United States*, 92 U. S. 462.

As to execution of city contracts and conveyances, and the formalities necessary, see note to Charter, Art. XVI., Sec. 7.

Trustee in testamentary trust: The city may be the active trustee in the administration of a charitable testamentary trust, hold the legal title, and may be compelled to execute the trust after acceptance: *Chambers vs. St. Louis*, 29 Mo. 543, (followed in *Barker vs. Donnelly*, 112 Mo. 561, 575).

Seal of St. Louis City: See Rev. Code, Sec. 2069.

Land dedicated to particular use—diversion to another use: Where an easement is created, an abandonment by the grantee restores the title to the grantor freed therefrom, and where the title is conveyed on condition, it reverts when the condition fails; but when the title is conveyed absolutely in trust for a particular purpose (as here to the city for a meat-shop) the land may after such particular use be used for other purposes where there is no reservation of the right of re-entry on the diversion or abandonment of the use: *Hand vs. St. Louis*, 158 Mo. 204, referring to numerous city cases and distinguishing same.

As to lands dedicated for street purposes and diverted see note to Art. VI, Sec. 1, of Charter.

Sec. 2. Corporate limits and boundaries.—The corporate limits of the City of St. Louis shall comprise all that district of country situated in the County of St. Louis and State of Missouri, to-wit: Beginning at a point in the middle of the main channel of the Mississippi River, and running thence westwardly at right angles to said channel, to a point on the west bank of said river 200 feet south of the center of the mouth of the River des Peres; thence westwardly and parallel to the center of the River des Peres, and 200 feet south thereof, to the eastern line of the Lemay Ferry road; thence westwardly to a point in the west line of said Lemay Ferry road at its intersection with the center of the Weber road; thence westwardly along the center of the Weber road to its intersection with the east line of lot one (1) of the Carondelet commons south of the River des Peres; thence westwardly to the southeast corner of Rudolph Overman's, or northeast corner of B. B. Haar's land; thence westwardly to said Haar's northwest corner; thence northwestwardly to a point in the center of the Gravois road six hundred (600) feet southwardly from the center of the bridge across the River des Peres; thence northwestwardly to the southeast corner of lot thirty-one (31) of the subdivision of the Mackenzie tract in U. S. Survey 1,953; thence northwestwardly in continuation of said last mentioned line to the southern line of lot twenty-one (21) of the subdivision of the said Mackenzie tract; thence northwestwardly to a point in the southern line of the U. S. Survey 2,035, twenty-six (26) chains eastward from the southwest corner of said survey; thence northwardly to a point in the north line of the subdivision of East Laclède, six hundred (600) feet west of the McCausland road; thence northwardly and parallel to the center of the McCausland road, to a point on the Clayton road six hundred (600) feet west of its intersection with the McCausland road; thence northwardly and parallel with the Skinner road, and six hundred (600) feet west thereof, to its intersection with the old Bonhomme road; thence northeasterly to the intersection of the center lines of Mc-

Laren avenue and Mead street; thence in a northeasterly direction to a point in the Bellefontaine road six hundred (600) feet north of its intersection with the Columbia Bottom road; thence northwardly and parallel with the center line of the Columbia Bottom road to the northern boundary line of the U. S. Survey number (114) one hundred and fourteen; thence eastwardly along said line to the center of the main channel of the Mississippi River; thence with the meanderings of said channel southwardly to the point of beginning.

Boundaries, Jurisdiction, etc.: The extension of the city to its present boundaries was expressly authorized by the constitution: Art. IX, Sec. 20. "The authority conferred by that section on St. Louis was not the right of amendment, but was a grant to embrace in the charter it was authorized to frame for the first time, other territory not then within its boundaries:" *Kansas City vs. Stegmiller*, 151 Mo. loc. cit. 200, 201. See boundary fixed in Scheme, Sec. 1. Boundary on the east by the Mississippi; see Constitution of Missouri, Art. 1, Sec. 1; as to Mississippi being a public highway, obstruction of same by buildings or construction work in the river, extent of riparian ownership and rights, etc., see *State ex rel. vs. Longfellow*, 169 Mo. 109, and discussion; also *Myers vs. St. Louis*, 82 Mo. 367; s. c. 8 Mo. App. 266, s. c. 113 U. S. 566; *St. Louis vs. Knapp Co.*, 104 U. S. 658, reversing s. c. 6 Fed. 221. Wharf boundaries and city ownership of wharf lands, see Rev. Code, Ch. X, Sec. 345, and following, and notes thereto; Harbor boundary see Charter, Art. IX, Sec. 3. Jurisdiction over Mississippi between Missouri and Illinois: See *Sanders vs. N. O. Anchor Line*, 97 Mo. 26, and cases; *Swearingen vs. Steamboat*, 13 Mo. 519; *St. Louis vs. Rutz*, 138 U. S. 226; Owning lands by city outside of city limits, see note introductory to Charter under "authority to purchase and hold property," etc. Taxation of lands beyond city limits: see note to Charter, Art. V, Sec. 1. A city ordinance or a city contract designed for the city at large, operates throughout its boundaries whatever their change: *Gaslight Co. vs. St. Louis*, 46 Mo. 121. See also *Blair vs. Chicago*, 201 U. S. 1. c. 488-489, (*Chicago Traction Company case*).

As to right of the state to determine the territorial limits of a municipality and alter or abrogate same see *St. Louis vs. Russell*, 9 Mo. 503, 507; *McCormick vs. Railway*, 20 Mo. App. 640 and cases cited: *Forsythe vs. Hammond*, 166 U. S. 506; *Graham vs. Folsom*, 200 U. S. 248.

Sec. 3. Ward boundaries.*—The City of St. Louis shall be divided into twenty-eight wards, the boundaries of which shall be as follows:

First Ward—Beginning at a point in the middle of the main channel of the Mississippi River opposite the north line of the present city limits; thence in a direct line to the north boundary of the City of St. Louis; thence in a westerly and southwesterly direction with the city limits to the Wabash Railway; with the Wabash Railway to Broadway, with Broadway to Calvary avenue, with Calvary avenue to Florissant avenue, with Florissant avenue to Euclid avenue, with Euclid avenue to Natural Bridge road, with Natural Bridge road to Marcus avenue, with Marcus avenue to St. Louis avenue, with St. Louis avenue to Newstead avenue, with Newstead avenue to Ashland avenue, with Ashland avenue to Clay avenue, with Clay avenue to Natural Bridge road, with Natural Bridge road to Fair avenue, with Fair avenue to Carter avenue, with Carter avenue to Adelaide avenue, with Adelaide avenue to Florissant avenue, with Florissant avenue to Warne avenue, with Warne avenue to Carter avenue, with Carter avenue to Obear avenue, with Obear avenue to Florissant avenue, with Florissant avenue to Ferry street, with Ferry street to Eleventh street, with Eleventh street to Angelica street, with Angelica street and Angelica street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel of the river to the place of beginning.

*These are the present ward boundaries: See note at end of this section.

Second Ward—Beginning at a point in the middle of the main channel of the Mississippi River opposite foot of Angelica street; thence in a direct line to and with Angelica street to Blair avenue, with Blair avenue to Salisbury street, with Salisbury street to Nineteenth street, with Nineteenth street to Hebert street, with Hebert street to Eleventh street, with Eleventh street to Madison street, with Madison street to Blair avenue, with Blair avenue to Chambers street, with Chambers street to Thirteenth street, with Thirteenth street to Tyler street, with Tyler street to Eleventh street, with Eleventh street to Brooklyn street, with Brooklyn street and Brooklyn street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to place of beginning.

Third Ward—Beginning at a point in the middle of the main channel of the Mississippi River opposite foot of Brooklyn street; thence in a direct line to and with Brooklyn street to Eleventh street, with Eleventh street to Cass avenue, with Cass avenue to Blair avenue, with Blair avenue to O'Fallon street, with O'Fallon street to Thirteenth street, with Thirteenth street to Carr street, with Carr street to Eleventh street, with Eleventh street to Wash street, with Wash street to Third street, with Third street to Carr street, with Carr street and Carr street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to place of beginning.

Fourth Ward—Beginning in the middle of the main channel of the Mississippi River, opposite Carr street, thence with Carr street to Third street, with Third street to Wash street, with Wash street to Eleventh street, with Eleventh street to Morgan street, with Morgan street to Twelfth street, with Twelfth street to Gay street, with Gay street to Thirteenth street, with Thirteenth street to Lucas avenue, with Lucas avenue to Sixteenth street, with Sixteenth street to Franklin avenue, with Franklin avenue to Eighteenth street, with Eighteenth street to Lucas avenue, with Lucas avenue to Seventeenth street, with Seventeenth street to Pine street, with Pine street to Fifteenth street, with Fifteenth street to Locust street, with Locust street to Fourteenth street, with Fourteenth street to St. Charles street, with St. Charles street to Thirteenth street, with Thirteenth street to Market street, with Market street to Twelfth street, with Twelfth street to Pine street, with Pine street to Seventh street, with Seventh street to Market street, with Market street to the middle of the main channel of the Mississippi River, up the main channel of the Mississippi River to the place of beginning.

Fifth Ward—Beginning at a point in the middle of the channel of the Mississippi River, opposite Market street, thence in a direct line and with Market street to Seventh street, with Seventh street to Pine street, with Pine street to Twelfth street, with Twelfth street to Market street, with Market street to Thirteenth street, with Thirteenth street to St. Charles street, with St. Charles street to Fourteenth street, with Fourteenth street to Locust street, with Locust street to Fifteenth street, with Fifteenth street to Pine street, with Pine street to Fourteenth street, with Fourteenth street to Clark avenue, with Clark avenue to Sixteenth street, with Sixteenth street to Missouri Pacific Railroad, with Missouri Pacific Railroad and Cerre street to Fourth street, with Fourth street to Plum street, with Plum street and Plum street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to the place of beginning.

Sixth Ward—Beginning at a point in the middle of the main channel of the Mississippi River opposite foot of Plum street; thence in a direct line to and with Plum street to Fourth street, with Fourth street to Cerre street, with Cerre street and the Missouri Pacific Railway to Twenty-second street, with Twenty-second street to Chouteau avenue, with Chouteau avenue to Grattan street, with Grattan street to Park avenue, with Park avenue to Thirteenth street, with Thirteenth street to Rutger street, with Rutger street and Rutger street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to the place of beginning.

Seventh Ward—Beginning at a point in the middle of the main channel of the Mississippi River, opposite the foot of Rutger street; thence in a direct line to and with Rutger street to Thirteenth street, with Thirteenth street to Park avenue, with Park avenue to Dolman street, with Dolman street to Lafayette avenue, with Lafayette avenue to Fourteenth street, with Fourteenth street to Geyer avenue, with Geyer avenue to Eleventh street, with Eleventh street to Lafayette avenue, with Lafayette avenue to Broadway, with Broadway to Lesperance street, with Lesperance street to Second street, with Second street to North Trudeau street, with North Trudeau street, Trudeau street and Trudeau street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to the place of beginning.

Eighth Ward—Beginning at a point in the middle of the main channel of the Mississippi River opposite of Trudeau street, thence in a direct line to and with Trudeau street and North Trudeau street to Second street, with Second street to Lesperance street, with Lesperance street to Broadway, with Broadway to Lafayette avenue, with Lafayette avenue to Eleventh street, with Eleventh street to Victor street, with Victor street to Twelfth street, with Twelfth street to Lynch street, with Lynch street to Thirteenth street, with Thirteenth street to Pestalozzi street, with Pestalozzi street to Ninth street, with Ninth street to Dorcas street, with Dorcas street to Broadway, with Broadway to Victor street, with Victor street and Victor street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to the place of beginning.

Ninth Ward—Beginning at a point in the middle of the main channel of the Mississippi River, opposite foot of Victor street, thence in a direct line to and with Victor street to Broadway, with Broadway to Dorcas street, with Dorcas street to Ninth street, with Ninth street to Pestalozzi street, with Pestalozzi street to Thirteenth street, with Thirteenth street to Lynch street, with Lynch street to Jefferson avenue, with Jefferson avenue to Miami street, with Miami street to Broadway, with Broadway to Potomac street, with Potomac street and Potomac street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to the place of beginning.

Tenth Ward—Beginning at a point in the middle of the main channel of the Mississippi River opposite foot of Potomac street, thence in a direct line to and with Potomac street to Broadway, with Broadway to Miami street, with Miami street to Jefferson avenue, with Jefferson avenue to Gravois avenue, with Gravois avenue to Magnolia avenue, with Magnolia avenue to Pennsylvania avenue, with Pennsylvania avenue to Arsenal street, with Arsenal street to Grand avenue, with Grand avenue to Osceola

street, with Osceola street and Osceola street extended to the middle of the main channel of the Mississippi River, up the middle of the main channel to the place of beginning.

Eleventh Ward—Beginning at a point in the middle of the main channel of the Mississippi River opposite foot of Osceola street; thence in a direct line to and with Osceola street to Grand avenue, with Grand avenue to Gravois avenue, with Gravois avenue to Eichelberger street, with Eichelberger street and Eichelberger street extended to western city limits, with western and southern city limits to the middle of the main channel of the Mississippi River, up the middle of the main channel of the river to the place of beginning.

Twelfth Ward—Beginning at intersection of Fourteenth street and Lafayette avenue; thence with Lafayette avenue to Jefferson avenue, with Jefferson avenue to Ann avenue, with Ann avenue to Ohio avenue, with Ohio avenue to Russell avenue, with Russell avenue to Oregon avenue, with Oregon avenue to Lafayette avenue, with Lafayette avenue to Grand avenue, with Grand avenue to Arsenal street, with Arsenal street to Pennsylvania avenue, with Pennsylvania avenue to Magnolia avenue, with Magnolia avenue to Gravois avenue, with Gravois avenue to Jefferson avenue, with Jefferson avenue to Lynch street, with Lynch street to Twelfth street, with Twelfth street to Victor street, with Victor street to Eleventh street, with Eleventh street to Geyer avenue, with Geyer avenue to Fourteenth street, with Fourteenth street to Lafayette avenue, the place of beginning.

Thirteenth Ward—Beginning at intersection of Grattan street and Chouteau avenue; thence with Chouteau avenue to Twenty-second street, with Twenty-second street to Missouri Pacific Railway, with Missouri Pacific Railway to West Jefferson avenue, with West Jefferson avenue to Chouteau avenue, with Chouteau avenue to Compton avenue, with Compton avenue to Rutger street, with Rutger street to Montrose avenue, with Montrose avenue to Park avenue, with Park avenue to Pennsylvania avenue, with Pennsylvania avenue to Lafayette avenue, with Lafayette avenue to Oregon avenue, with Oregon avenue to Russell avenue, with Russell avenue to Ohio avenue, with Ohio avenue to Ann avenue, with Ann avenue to Jefferson avenue, with Jefferson avenue to Lafayette avenue, with Lafayette avenue to Dolman street, with Dolman street to Park avenue, with Park avenue to Grattan street, with Grattan street to Chouteau avenue, the place of beginning.

Fourteenth Ward—Beginning at intersection of Fourteenth street and Pine street; thence with Pine street to Beaumont street, with Beaumont street to Laclede avenue, with Laclede avenue to Ewing avenue, with Ewing avenue to Bernard street, with Bernard street to Jefferson avenue, with Jefferson avenue and West Jefferson avenue to Missouri Pacific Railway, with Missouri Pacific Railway to Sixteenth street, with Sixteenth street to Clark avenue, with Clark avenue to Fourteenth street, with Fourteenth street to Pine street, the place of beginning.

Fifteenth Ward—Beginning at the intersection of Eleventh street and Carr street; thence with Carr street to Thirteenth street, with Thirteenth street to O'Fallon street, with O'Fallon street to Fourteenth street, with Fourteenth street to Biddle street, with Biddle street to Sixteenth street, with Sixteenth street to Carr street, with Carr street to Twenty-second street, with Twenty-second street to Pine street, with Pine street to Seven-

teenth street, with Seventeenth street to Lucas avenue, with Lucas avenue to Eighteenth street, with Eighteenth street to Franklin avenue, with Franklin avenue to Sixteenth street, with Sixteenth street to Lucas avenue, with Lucas avenue to Thirteenth street, with Thirteenth street to Gay street, with Gay street to Twelfth street, with Twelfth street to Morgan street, with Morgan street to Eleventh street, with Eleventh street to Carr street to the place of beginning.

Sixteenth Ward—Beginning at intersection of Eleventh and Tyler streets; thence with Tyler street to Thirteenth street, with Thirteenth street to Chambers street; thence with Chambers street to Blair avenue, with Blair avenue to Madison street, with Madison street to Fifteenth street, with Fifteenth street to Chambers street, with Chambers street to Sixteenth street, with Sixteenth street to Mullanphy street, with Mullanphy street to Hogan street, with Hogan street to Cass avenue, with Cass avenue to Jefferson avenue, with Jefferson avenue to Carr street, with Carr street to Sixteenth street, with Sixteenth street to Biddle street, with Biddle street to Fourteenth street, with Fourteenth street to O'Fallon street, with O'Fallon street to Blair avenue, with Blair avenue to Cass avenue, with Cass avenue to Eleventh street, with Eleventh street to Tyler street, the place of beginning.

Seventeenth Ward—Beginning at intersection of Twenty-second and Hebert streets; thence with Hebert street to Florissant avenue, with Florissant avenue to Farrar street, with Farrar street to Glasgow avenue, with Glasgow avenue to Hebert street, with Hebert street to Jefferson avenue, with Jefferson avenue to Cass avenue, with Cass avenue to Hogan street, with Hogan street to Maiden Lane, with Maiden Lane to Nineteenth street, with Nineteenth street to Benton street, with Benton street to Twenty-second street, with Twenty-second street to Hebert street, to the place of beginning.

Eighteenth Ward—Beginning at intersection of Eleventh and Hebert streets; thence with Hebert street to Twenty-second street, with Twenty-second street to Benton street, with Benton street to Nineteenth street, with Nineteenth street to Maiden Lane, with Maiden Lane to Hogan street, with Hogan street to Mullanphy street, with Mullanphy street to Sixteenth street, with Sixteenth street to Chambers street, with Chambers street to Fifteenth street, with Fifteenth street to Madison street, with Madison street to Eleventh street, with Eleventh street to Hebert street, the place of beginning.

Nineteenth Ward—Beginning at intersection of Eleventh street and Ferry street; thence with Ferry street to Florissant avenue, with Florissant avenue to Obear avenue, with Obear avenue to Carter avenue, with Carter avenue to Warne avenue, with Warne avenue to Florissant avenue, with Florissant avenue to Adelaide avenue, with Adelaide avenue to Carter avenue, with Carter avenue to Fair avenue, with Fair avenue to Natural Bridge road, with Natural Bridge road to Clay avenue, with Clay avenue to Ashland avenue, with Ashland avenue to Sarah street, with Sarah street to St. Louis avenue, with St. Louis avenue to Jefferson avenue, with Jefferson avenue to Hebert street, with Hebert street to Glasgow avenue, with Glasgow avenue to Farrar street, with Farrar street to Florissant avenue, with Florissant avenue to Hebert street, with Hebert street to Nineteenth street, with Nineteenth street to Salisbury street, with Salisbury street to Blair avenue, with Blair avenue to Angelica street, with Angelica street to Eleventh street, with Eleventh street to Ferry street, to place of beginning.

Twentieth Ward—Beginning at intersection of Jefferson avenue and St. Louis avenue; thence with St. Louis avenue to Coleman street, with Coleman street to Magazine street, with Magazine street to Webster avenue, with Webster avenue to Easton avenue, with Easton avenue to Ewing avenue, with Ewing avenue to Lucas avenue, with Lucas avenue to Beaumont street, with Beaumont street to Franklin avenue, with Franklin avenue to Jefferson avenue, with Jefferson avenue to St. Louis avenue, the place of beginning.

Twenty-first Ward—Beginning at intersection of Ewing and Easton avenues; thence with Easton avenue to Webster avenue, with Webster avenue to Magazine street, with Magazine street to Coleman street, with Coleman street to St. Louis avenue, with St. Louis avenue to Spring avenue, with Spring avenue to Cozens avenue, with Cozens avenue to Prairie avenue, with Prairie avenue to Evans avenue, with Evans avenue to Vandeventer avenue, with Vandeventer avenue to Delmar boulevard, with Delmar boulevard to Grand avenue, with Grand avenue to Lucas avenue, with Lucas avenue to Ewing avenue, with Ewing avenue to Easton avenue, the place of beginning.

Twenty-second Ward—Beginning at intersection of Twenty-second and Carr streets; thence with Carr street to Jefferson avenue, with Jefferson avenue to Franklin avenue, with Franklin avenue to Beaumont street, with Beaumont street to Lucas avenue, with Lucas avenue to Grand avenue, with Grand avenue to Laclede avenue, with Laclede avenue to Beaumont street, with Beaumont street to Pine street, with Pine street to Twenty-second street, with Twenty-second street to Carr street, the place of beginning.

Twenty-third Ward—Beginning at intersection of Ewing and Laclede avenues; thence with Laclede avenue to Vandeventer avenue, with Vandeventer avenue to Manchester avenue, with Manchester avenue to Papin street, with Papin street to Missouri Pacific Railway, with Missouri Pacific Railway to Tower Grove avenue, with Tower Grove avenue to Folsom avenue, with Folsom avenue to Grand avenue, with Grand avenue to Lafayette avenue, with Lafayette avenue to Pennsylvania avenue, with Pennsylvania avenue to Park avenue, with Park avenue to Montrose avenue, with Montrose avenue to Rutger street, with Rutger street to Compton avenue, with Compton avenue to Chouteau avenue, with Chouteau avenue to West Jefferson avenue, with West Jefferson avenue and Jefferson avenue to Bernard street, with Bernard street to Ewing avenue, with Ewing avenue to Laclede avenue, the place of beginning.

Twenty-fourth Ward—Beginning at intersection of Grand and Folsom avenues; thence with Folsom avenue to Tower Grove avenue, with Tower Grove avenue to Missouri Pacific Railway, with Missouri Pacific Railway to Old Manchester road, with Old Manchester road to Boyle avenue, with Boyle avenue to Norfolk avenue, with Norfolk avenue to Tower Grove avenue, with Tower Grove avenue to Swan avenue, with Swan avenue to Newstead avenue, with Newstead avenue to Missouri Pacific Railway, with Missouri Pacific Railway to King's Highway boulevard, with King's Highway boulevard to south line of Forest Park, with south line of Forest Park to Skinker road, with Skinker road to Clayton avenue, with Clayton avenue to western city limits, with western city limits in a southerly direction, to a point where Eichelberger street extended would intersect the city limits, with Eichelberger street extended and Eichelberger street to Gravois avenue, with Gravois avenue to Grand avenue, with Grand avenue to Folsom avenue, the place of beginning.

Twenty-fifth Ward—Beginning at intersection of Grand avenue and Delmar boulevard; thence with Delmar boulevard to Vandeventer avenue, with Vandeventer avenue to Cook avenue, with Cook avenue to Pendleton avenue, with Pendleton avenue to Fairfax avenue, with Fairfax avenue to Whittier street, with Whittier street to Olive street, with Olive street to Boyle avenue, with Boyle avenue to Lindell boulevard, with Lindell boulevard to Newstead avenue, with Newstead avenue to Forest Park boulevard, with Forest Park boulevard to Boyle avenue, with Boyle avenue to Chouteau avenue, with Chouteau avenue to Newstead avenue, with Newstead avenue, offset on Manchester avenue to Swan avenue, with Swan avenue to Tower Grove avenue, with Tower Grove avenue to Norfolk avenue, with Norfolk avenue to Boyle avenue, with Boyle avenue to Old Manchester road, with Old Manchester road to Missouri Pacific Railway, with Missouri Pacific Railway to Papin street, with Papin street to Manchester avenue, with Manchester avenue to Vandeventer avenue, with Vandeventer avenue to Laclede avenue, with Laclede avenue to Grand avenue, with Grand avenue to Delmar boulevard, the place of beginning.

Twenty-sixth Ward—Beginning at intersection of St. Louis and Spring avenues; thence with St. Louis avenue to Sarah street, with Sarah street to Ashland avenue, with Ashland avenue to Newstead avenue, with Newstead avenue to St. Louis avenue, with St. Louis avenue to Pendleton avenue, with Pendleton avenue to Kennerly avenue, with Kennerly avenue to Marcus avenue, with Marcus avenue to Garfield avenue, with Garfield avenue to Taylor avenue, with Taylor avenue to Cook avenue, with Cook avenue to Vandeventer avenue, with Vandeventer avenue to Evans avenue, with Evans avenue to Prairie avenue, with Prairie avenue to Cozens avenue, with Cozens avenue to Spring avenue, with Spring avenue to St. Louis avenue, the place of beginning.

Twenty-seventh Ward—Beginning at intersection of Pendleton and St. Louis avenues; thence with St. Louis avenue to Marcus avenue, with Marcus avenue to Natural Bridge road, with Natural Bridge road to Euclid avenue, with Euclid avenue to Florissant avenue, with Florissant avenue to Calvary avenue, with Calvary avenue to Broadway, with Broadway to Wabash Railway, with Wabash Railway to western city limits, with western city limits to Page boulevard, with Page boulevard to Taylor avenue, with Taylor avenue to Garfield avenue, with Garfield avenue to Marcus avenue, with Marcus avenue to Kennerly avenue, with Kennerly avenue to Pendleton avenue, with Pendleton avenue to St. Louis avenue, the place of beginning.

Twenty-eighth Ward—Beginning at intersection of Pendleton and Cook avenues; thence with Cook avenue to Taylor avenue, with Taylor avenue to Page boulevard, with Page boulevard to western city limits, with western city limits to Clayton avenue, with Clayton avenue to Skinker road, with Skinker road to southwest corner of Forest Park, with south line of Forest Park to King's Highway boulevard, with King's Highway boulevard to Missouri Pacific Railway, with Missouri Pacific Railway to Newstead avenue, with Newstead avenue to Chouteau avenue, with Chouteau avenue to Boyle avenue, with Boyle avenue to Forest Park boulevard, with Forest Park boulevard to Newstead avenue, with Newstead avenue to Lindell boulevard, with Lindell boulevard to Boyle avenue, with Boyle avenue to

Olive street, with Olive street to Whittier street, with Whittier street to Fairfax avenue, with Fairfax avenue to Pendleton avenue, with Pendleton avenue to Cook avenue, the place of beginning.

NOTE—In the above ward descriptions where streets and avenues are named, it is understood to be the center of each street or avenue, and where railroads are named, it is understood to be the center of the main track.

The ward boundaries here given were established by ord. 19289 (approved March 28, 1898) under the provisions of the next section of this article, and are those still in force, but a bill to change them is now pending. See the original ward boundaries set out in Rev. Ord. 1881, pp. 103-114; and as to subsequent changes, see McQuillin Amen. Chart., p. 166, note c. The original boundaries were changed by commissioner's report, approved Feb. 11, 1887 (pursuant to Laws 1885, p. 72); then by ord. 16662, approved April 22, 1892; then by ord. 19289, approved March 28, 1898.

"The courts are authorized to take notice, without proof, that Arsenal street is in a distant southern part of St. Louis, by reason of the language of the charter of that city, in which it is expressly named as one of the ward boundaries": Per Barclay, *Walsh vs. Ry.*, 102 Mo. l. c. 589.

Sec. 4. Correction of ward limits and permanent division lines.—The Municipal Assembly shall, every five years after the adoption of this Charter, establish corrected ward limits, which correction shall be made as near as practicable so as to equalize the number of registered voters in each ward; but in making the division the present eastern and western boundaries of wards as herein established shall be retained, so that Rosatti, Twelfth and Eleventh streets, Jefferson avenue and the present city limits shall remain division lines.

See note to preceding section.

ARTICLE II.

ELECTION AND REGISTRATION.

SECTION.

1. General election for city officers.

SECTION 1. A general election of all elective officers required by this Charter or by any ordinance of this city shall be held on the first Tuesday in April, 1877, and every four years thereafter, except as otherwise provided in this Charter and the Scheme.

* * * *

See also Charter, Art. III, Sec. 26, Clause 8. All the original charter provisions (except above) were superseded by the state statutes, which now control elections. The charter provisions are therefore omitted here. These election laws are set forth hereinbefore under "Laws Specially Applicable to St. Louis." Chapter 9, ante pp. 124-156. The present law has been sustained by the courts. See notes to said reference and cases there cited. For a history of election laws relating to St. Louis see McQuil. Amended Charter, p. 179, note.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION

1. Municipal Assembly to consist of two Houses.

MEMBERS OF MUNICIPAL ASSEMBLY—ORGANIZATION AND SESSIONS.

2. Council composed of 13 members, qualifications, etc.
3. Terms of members of first Council; tie vote; one-half of Council to be elected biennially.
4. House of Delegates elected every two years.
5. Qualifications of members of House of Delegates.
6. Additional qualifications for members of Assembly; oath of members, etc.
7. Vacancies in Assembly, how filled.
8. Each House to appoint its own officers and be judge of the election, etc., of its own members; tie vote; may punish for contempt; president of Council elected every four years; speaker of House; quorum; sessions; adjournment, etc.
9. Journal of proceedings.
10. Members of Assembly ineligible for office during terms.
11. One annual session.

LEGISLATIVE PROCEEDINGS.

12. Style of ordinances.
13. Origin, amendment and passage of bills; report on public improvement bills required within limited time.
14. Compensation of members of Assembly.
15. Engrossment of bills.
16. Vote of majority of members elect necessary to pass bill.
17. Amendments; reports of committees on Conference.
18. Reference to title insufficient to re-enact.
19. Form of amendments.
20. Motion to reconsider, etc.
21. Ordinances to take effect ten days after approval, except in cases of emergency.
22. Bills to be signed in open session; to be read at length; objections, how disposed of.
23. Bills approved to be returned by Mayor within ten days.
24. Mayor may object to items of appropriation and approve portions of bill.
25. Veto of ordinances by Mayor.

LEGISLATIVE POWERS ENUMERATED—LIMITATIONS.

26. Legislative powers vested in Mayor and Assembly.
 - First—to assess, levy and collect taxes; borrow and appropriate money.
 - Second—to establish, improve, light, sprinkle, etc., streets; condemn prop-

SECTION.

- erty; repairs of streets, bridges, etc.; water-courses, water works; Police and Fire Departments.
- Third—Municipal buildings; market places, and authority to improve or sell parks, etc.
- Fourth—to improve harbor; regulate ferries; create port wardens; regulate mooring of vessels; lease portions of wharf, etc.
- Fifth—to license, tax, and regulate various kinds of business, etc.; fix rates for carriage, drayage, etc., and regulate width of tires; to suppress certain occupations and amusements.
- Sixth—to establish quarantine; regulate quarrying, slaughtering of animals, and abate nuisances; summary power of Mayor.
- Seventh—to establish standard for weights and measures; inspection of lumber, etc., and various articles of food and manufacture, etc.
- Eighth—to regulate and provide for elections; fix jury fees, salaries, etc.
- Ninth—to prevent riots; to regulate or prohibit animals running at large; obstructions on streets, etc.
- Tenth—to impose and collect fines, etc.; commitments to Workhouse.
- Eleventh—to protect rights of city in corporations; grant, regulate or repeal railway franchises; free passes on street railways prohibited.
- Twelfth—to examine premises; regulate storage of gunpowder, etc., prohibit wooden buildings, and enforce precautions against fire; inspection of buildings, etc.
- Thirteenth—to provide for insane persons and paupers; assessments, etc., of state revenue.
- Fourteenth—General authority to pass and enforce ordinances; provide for census.
27. To guard against fires in public halls, etc.
28. Numbering, printing, etc., of ordinances; repeal of same.
29. Revision of general ordinances.
30. Assembly forbidden to remit taxes or compromise claims.
31. Power to compel attendance of witnesses, etc., and administer oaths.
32. Power to distribute duties of officers and abrogate offices.
33. Appropriations for charitable purposes.
34. Stone quarries, soap factories, etc., forbidden within 300 feet of dwellings, except by consent.
35. Restrictions as to cholera, smallpox patients.

Section 1. The Municipal Assembly.—The legislative power of the City of St. Louis shall be vested in a Council and a House of Delegates, to be styled the "Municipal Assembly of the City of St. Louis."

As to the powers of the municipal assembly, its legislative functions and the extent to which the courts may or may not interfere therewith, and when its ordinances are or may be declared invalid, etc., see note introductory to Art. III, Sec. 26, of this Charter, and authorities there cited.

As to ordinance provisions respecting the municipal assembly, its organization, elections thereto, etc., see Rev. Code, Chap. 15, Art. I, Secs. 1376 and following; as to ordinances on the subject of ordinances, see *ib.* Art. 2, Secs. 1397-1414, and note to Charter, Art. III, Sec. 12.

Until the constitutional amendment in 1902 the assembly was required to consist of two houses (as at present) but the amendment then passed will permit of an amendment to the charter so that the assembly will consist of "at least one house of legislation to be elected by a general ticket": Const., Art. IX, Sec. 22.

MEMBERS OF MUNICIPAL ASSEMBLY—ORGANIZATION AND SESSIONS.

Sec. 2. The Council.—The Council shall consist of thirteen members, one of whom shall be its president, who shall be chosen on a general ticket by the qualified voters of the city, for four years, subject to the exception stated in the next section. Every member of the Council shall be a qualified voter, at least thirty years of age, and shall have been a citizen of this State five years, and an inhabitant of the city for one year next before the day of his election.

The provision originally contained in Sec. 2, requiring a member of the council to be "a freeholder of property therein," is omitted because it was rendered void by Sec. 5259, R. S. 1899, declaring every such provision as "inoperative and void."

Elected and appointed officers of the city are required to be citizens of the city at least two years, etc. See Chart., Art. IV, Sec. 10.

As to the ordinances relating to councilmen, elections, compensation, etc., see R. C. 1377 *et seq.*

Sec. 3. Terms of councilmen first elected—elections.—Of the members of the Council first elected, the president and the six receiving the highest number of votes shall hold their office for four years, and the other six for only two years. In case of a tie the senior in age shall hold for four years. At each general election thereafter for members of the House of Delegates, members of the Council shall be elected to succeed those whose terms will then have expired.

Sec. 4. House of delegates—election.—The House of Delegates shall consist of one member from each ward, to be chosen every two years by the qualified voters of the several wards.

Sec. 5. Qualification of delegates.—Every member of the House of Delegates shall, before the day of election, have attained the age of at least twenty-five years, have been a citizen of the United States and an inhabitant of the city three years, and of the ward which he may be chosen to represent, one year, and shall have paid city and State taxes for at least two years next before the day of election.

Sec. 6. Additional qualifications.—In addition to qualifications in the preceding sections, every member of the Municipal Assembly shall possess the following: He shall not be directly or indirectly interested in any

contract with the city, or any department or institution thereof, and shall not be indebted to the State or city on account of any tax. He shall not have been convicted of malfeasance in office, bribery or other corrupt practices or crimes. Before any member of the Council or House of Delegates shall take his seat or perform the duties of his office, he shall take and subscribe an oath before the Register, (who shall file the same in his office,) that he possesses all the qualifications required in this and the preceding sections, and is not subject to any of the disqualifications therein named, and that he will support the Constitution of the United States and of this State, and faithfully discharge the duties of his office. Any member, who shall at any time during his term cease to possess any of the qualifications mentioned in this and the preceding sections, shall thereby forfeit his office, and the same shall be filled as provided for in cases of other vacancies.

Similar disqualifications as to all elected and appointed officers: See Chart., Art. IV, Sec. 10, and note thereto; see also as to assemblymen further ineligibility, Art. III, Sec. 10.

Member interested in contract: R. S. 1899, Sec. 2346, providing that a city officer is guilty of misdemeanor if he becomes interested in a city contract applies to a member of the municipal assembly: *State vs. Kelly*, 103 Mo. App. 711 (holding that he may be punished although the same statute provides for removal from office).

A similar provision making any interest in a city contract a disqualification for office exists as to "all elected and appointed officers," in Charter, Art. IV, Sec. 10, and the subject is more fully treated in a note thereto.

Payment of taxes: It seems that payment of taxes on the day of election is in time to avoid ineligibility under a statute making it such for a candidate to be in arrears for unpaid city taxes: *State ex inf. vs. Berkeley*, 140 Mo. 184; but a receipt made the day after election without naming any sum or specific property is worthless to show payment of taxes: *State ex rel. vs. Williams*, 99 Mo. 291.

Conviction for other corrupt practices or crimes, in this section means those of the same class as those enumerated, and selling lottery tickets is not such: *State ex rel. vs. Bersh*, 83 Mo. App. 657, 666.

Sec. 7. Vacancies in Assembly—how filled.—Whenever a vacancy occurs, from any cause, in the office of any member of the Assembly, the Mayor, upon information thereof, shall, by proclamation, order an election to fill such vacancy for the unexpired term thereof, if the same exceed three months, to be held upon some day named in such order, not less than twenty nor more than thirty days next after the issuing of the proclamation.

Ordinance provision, see Rev. Code, Sec. 1390. As to what constitutes a vacancy in general, see note to Art. IV, Sec. 5.

When the House ousts one of its members-elect as ineligible, a vacancy occurs and the House cannot declare the candidate receiving the next highest vote as elected, but the mayor must fill the vacancy: *Sheridan vs. St. Louis*, 183 Mo. 25.

Sec. 8. Officers—prerogatives of Assembly—sessions—quorum—adjournment.—Each house shall appoint its own officers, except the President of the Council, and shall be sole judge of the qualifications, election and returns of its own members; and in case of a tie vote shall certify the same to the Mayor, who shall order a new election; may determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine, not exceeding three hundred dollars, or imprisonment, as provided by ordinance, not exceeding ten days, or both, any person not a member, who shall be guilty of disrespect to the House by any disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct, and with the concurrence of two-thirds of all members-

elect, may expel a member; but no member shall be expelled a second time for the same cause. The presiding member of the Council shall be designated as "president," and shall be elected as such by the qualified voters, by general ticket every four years. The presiding officer of the House of Delegates shall be designated as "speaker," and be elected by the members thereof. A majority of the whole number of members of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalties as each house may provide. The sessions of each house shall be held with open doors. Neither house shall, without consent of the other, adjourn for more than seven days at any one time, nor to another place than that in which the two houses may be sitting. The Assembly shall hold its sessions in the City Hall, subject to temporary change as aforesaid.

Although the House of Delegates may oust a candidate returned as elected, on the ground that he is disqualified by former conviction for crime, it cannot declare the candidate against him as elected and admit him as a member, because it cannot fill a vacancy caused by its action: *Sheridan vs. St. Louis*, 183 Mo. 25. It was held at first by the Court of Appeals that notwithstanding the above charter provision the courts may exercise a supervisory control where the house departs from or exceeds its powers: *State ex rel. vs. Giovanoni*, 59 Mo. App. 41; but this case was overruled in *State ex rel. vs. Bersh*, 83 Mo. App. 657 (Biggs, J., dissenting) and it was held that it is solely within the sphere of the House to judge of the qualifications of its members and that its acts in that respect cannot be controlled by the courts.

The Speaker of the House holds his office at the will of a majority of the delegates, and may be at any meeting removed by them: *State ex rel. vs. Alt*, 26 Mo. App. 673. For ordinance on Speaker see R. C., Sec. 1381.

As to the President of the Council, see *supra* Sec. 2.

The functions of the presiding officers are legislative: See *Albright vs. Fisher*, 164 Mo. 1. c. 65 (overruling *State ex rel. vs. Meier*, 143 Mo. 439, in so far as the latter held that such officer could be compelled by mandamus to sign a bill).

Rules may be suspended, waived or modified: *Sedalia vs. Montgomery*, 109 Mo. App. 197, 210.

For ordinance on Rules and Regulations see R. C., Sec. 1388.

For ordinance on contumacy, how dealt with, see R. C., Sec. 1394.

Sec. 9. Journal to be kept.—Each house shall keep a journal of its proceedings, and the yeas and nays of the members on any question shall, at the desire of any two members, be taken and entered therein.

As to yeas and nays see Art. III, Secs. 16, 17, 21, 25, 30; Art. IV, Sec. 12.

The journal required by statute for cities of the third class is competent proof of the proceedings but not conclusive in jurisdictional matters: *Sedalia vs. Montgomery*, 109 Mo. App. 197 (certified to the Supreme Court as in conflict with *Knopf vs. Roofing Co.*, 92 Mo. App. 279 and *Sedalia vs. Scott*, 104 Mo. App. 595).

Silence of a member does not evidence his consent to a measure: *Carle vs. De Soto*, 63 Mo. App. 1. c. 163.

Sec. 10. Members ineligible to office during term.—No member of the Assembly shall, during the term for which he is elected, be eligible or appointed to any office under the city, nor shall any member of the Assembly, while such, be an employe of the city, or of either branch of the Assembly, in any capacity whatever, and no compensation shall be audited or paid for services as such officer or employe.

For other disqualifications of assemblymen see Art. III, Sec. 6; IV Sec. 10 and note thereto.

No member of General Assembly shall be appointed to any state office or of any municipality: Const., Art. IV, Sec. 12; in cities of over 200,000 inhabitants no

person shall be both state and city officer or fill two municipal offices, (not applicable to notaries, justices of the peace or militia) Const., Art. IX, Sec. 18.

Sec. 11. One annual session.—One session of the Assembly shall be held annually, beginning on the third Tuesday of April.

Amendment passed in 1885; formerly sessions began on first Tuesday instead of third. Extra sessions of the municipal assembly and what legislation may be had thereat: see note to Art. IV, Sec. 18.

LEGISLATIVE PROCEEDINGS—ORDINANCES.*

*GENERAL NOTE ON ORDINANCES.

For ordinances on the subject of ordinances see Rev. Code, Ch. 15, Art. 2, Secs. 1397 to 1414.

As to legislative powers of the Municipal Assembly, and its limitations, and the control of the courts to annul ordinances, see note to Art. III, Sec. 26 (heading).

Ordinances in force at adoption of charter, not in conflict with it, remain in force until repealed: Charter, Art. XVI, Sec. 1.

Departure from prescribed form by omission of the ordaining clause or similar informalities is not fatal to the validity of the ordinance; such provisions are directory unless stated to be indispensable: *St. Louis vs. Foster*, 52 Mo. 513. See to same effect *Rockville vs. Merchant*, 60 Mo. App. 365, 371; *St. Louis vs. Stern*, 3 Mo. App. 48; see also *Tarkio vs. Cook*, 120 Mo. 1, 7-8.

It was held that, like statutes, city ordinances cannot be shown to be invalid by going behind the formal attestation and showing that the requirements of the organic law were not complied with: *Ball vs. Fagg*, 67 Mo. 481, 484; but this case was overruled in subsequent cases; see notes to heading of Sec. 26 of this article.

Ordinances unauthorized by charter or in conflict with it, see note to Art. III, Sec. 26.

Ordinances to go into effect on certain contingency are valid. See note to Art. III, Sec. 21.

Partial validity of ordinances. Where certain provisions of an ordinance are attacked, which are valid, and such provisions are severable from and not dependent upon invalid parts, the whole enactment will not be declared void because of such invalid portions, but the valid portion will be sustained, unless that would defeat the general object of the enactment, in which case the whole is void: *St. Louis vs. Liessing*, 190 Mo. 464, loc. cit. 489; *St. Louis vs. Grafeman Dairy Co.*, 190 Mo. 492; *Kirkwood vs. Highlands*, 94 Mo. App. 637; *Asphalt Co. vs. Ulman*, 137 Mo. 1 c. 569; *St. Louis vs. Ry.*, 89 Mo. 44; *Hannibal vs. Ry.*, 31 Mo. App. 23; *Quinette vs. St. Louis*, 76 Mo. 402, 404.

Ordinances presumptively valid. Ordinances are presumed to be valid and the burden to show that any of the steps required by law in its passage were not properly taken rests upon him attacking it: *Savings Bank vs. Ridge*, 183 Mo. 506, 518 (special tax bill under ordinance); *State ex rel. vs. St. Louis*, 174 Mo. 125, 136 (two-thirds vote required being presumed unless contrary shown); *Young vs. St. Louis*, 47 Mo. 492 (two-thirds vote presumed when required). They are presumed to be passed as required by the charter: *State ex rel. vs. St. Louis*, 169 Mo. 31, 37; if not passed in a certain required manner necessary to their validity or if certain conditions precedent essential to their validity do not exist, that is special matter of defense to be pleaded and proved: *St. Louis vs. Gleason*, 15 Mo. App. 25, 29 (street opening). Parol evidence was at one time held inadmissible: *Ball vs. Fagg*, 67 Mo. 481; but this was said to have been practically overruled by *State ex rel. vs. Mead*, 71 Mo.; See *Fruin Bambrick vs. Geist*, 37 Mo. App. 1 c. 516. See also cases under note to Charter, Art. III, Sec. 9.

Attacking ordinance in the courts for fraud or as being unreasonable or oppressive, see note to Charter, heading of Sec. 26 of Art. III, and authorities there cited.

Pleading ordinances—judicial notice. The courts will not take judicial notice of ordinances; the party relying on the same must set out so much of them as may be necessary for his position: *St. Louis vs. Liessing*, 190 Mo. 464, 490 (and see p.485 that if one section of an ordinance, of many sections, is pleaded, it is very doubtful whether other sections of the same ordinance can be considered); *Mooney vs. Kennett*, 19 Mo. 551; *St. Louis vs. Roche*, 128 Mo. 541, 544-545; *Tarkio vs. Loyd*, 179 Mo. 600, 605; *Givens vs. Van Studdiford*, 86 Mo. 149 (distinguished in *Bragg vs. Railway*, 192 Mo. 1. c. 350); *St. Louis vs. Bippin*, 100 S. W. 1048.

Reference merely to title and date of passage without more is insufficient: *St. Louis vs. Stoddard*, 15 Mo. App. 173, 179. But if the ordinance is a mere matter of evidence, and not the basis of the claim, and simply defines certain duties, the ordinance need not be pleaded, for the rule that evidence should not be pleaded is applicable to ordinances: *Bailey vs. Kansas City*, 189 Mo. 503, 514; *Bragg vs. Street Ry.*, 192 Mo. 331, 350; *Meng vs. Railroad*, 108 Mo. App. 553, 564; *Mulderig vs. Railroads*, 116 Mo. App. 655, 665. As to the sufficiency of pleading ordinances in a police court, charging violation of an ordinance, see notation to Rev. Code, Sec. 1279. And it may be that a strictly municipal court will take notice of the city ordinances of a general nature: See *McQuil*, "Amended Charter," note on p. 200 to Art. III, Sec. 26 of Charter, citing cases from other states.

Although the case declares on an ordinance and pleads it, yet if there is sufficient pleaded and proved to make a case at common law the plaintiff may recover although the ordinance is not proved: *Winkelman vs. Electric Co.*, 112 Mo. App. 184, 190, citing other cases.

Evidence of ordinances—how ordinances proved. Rev. St. Mo. 1899, Sec. 3100, provides that printed copies of ordinances purported to be published by authority of the city and certified to by the officer having charge of the same (register), with the seal of the city, are admissible in all the courts of this state without further proof; and any printed volume purporting to be published by such authority and to contain the ordinances are so admissible: See on this subject *Campbell vs. Railway*, 175 Mo. 171, 176 (in that case being the *St. Louis Revised Ordinances*); and no seal or attestation to printed volume is in such case required: *St. Louis vs. Foster*, 52 Mo. 513, 517 (also referring to the *Revised Ord. of St. Louis*); *Tarkio vs. Cook*, 120 Mo. 1, 12, citing *Tipton vs. Norman*, 72 Mo. 381.

By ordinance provision a reference to the revision of the *St. Louis ordinances* by section number is sufficient: See Rev. C., Sec. 1414.

But it may be observed that even in case of the official statutory revision, it may be shown that a provision has been illegally carried into it, and reference to the original rolls in the office of the Secretary of State is permissible to ascertain the facts: *Bowen vs. Railway*, 118 Mo. 541.

Proof where original ordinance record torn out of regular ordinance record book: *Webb City vs. Parker*, 103 Mo. App. 295; proof where original ordinance is lost: *Covane vs. Milan*, 99 Mo. App. 672; *Wells vs. Pressy*, 105 Mo. 164, 178; *Rockville vs. Merchant*, 60 Mo. App. 365, 370.

That ordinances cannot be impeached by parol, or going behind the formal attestation, to prove that the formalities required by the charter were not complied with has been stated above in this note.

Public presumed to know ordinances. The residents within a municipality must be held to know and take notice of the ordinances of the city; and this requirement is not inconsistent with the rule that the courts do not take judicial notice thereof: *Jackson vs. Ry.*, 118 Mo. 199, 218-219.

And the provisions enter into a contract made with the city, whether formally referred to therein or not: See note to Art. XVI, Sec. 7.

As to judicial and public notice of Charter provisions, see note introductory to Art. I of the Charter: "General Considerations Respecting Charter."

Estoppel to attack ordinance as invalid by one who claims the benefit thereof: *California vs. Telephone Co.*, 112 Mo. App. 722; *Henderson vs. Koenig*, 192 Mo. 690. See also note to Chart., Art. VI, Sec. 25, as to estoppel of owner to contest ordinance on which special tax bill is issued; and as to the doctrine of estoppel

applying against and in favor of the city see note to Chart., Art. XVI, Sec. 7 and cases cited.

Construction of ordinances: See note at heading of Sec. 26 of Art. III, and cases there cited.

Construction of ordinances is for the court, and should not be left to the jury: *Barton vs. Odessa*, 109 Mo. App. 76. Nor can its validity be left to the jury: *Fruin Bambrick vs. Geist*, 37 Mo. App. 1. c. 516.

See as to certain ordinances on construction of city ordinances: Rev. Code, Secs. 1400-1410.

Sec. 12. Style of ordinances.—The style of ordinances of this city shall be: "*Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:*"

Sec. 13. Origin, amendment and passage of bills—report on public improvement bills required within limited time.—No ordinance shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose. Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house. Except as hereinafter specifically provided, no bill shall be considered for final passage unless the same has been reported upon by a committee. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated), shall contain more than one subject, which shall be clearly expressed in its title. Any bill or matter recommended by the Board of Public Improvements and referred to either a standing or special committee of the Council or House of Delegates shall be reported upon by that committee within forty days from the time it was so referred. In the event of failure of such committee to so report within the time specified, the bill or subject matter shall be considered as before the Council or House of Delegates, as the case may be, and shall be referred to a committee of the whole Council or House of Delegates, and acted upon by said committee of the whole.

That ordinances are presumed to be regularly passed, etc., and also that they are not void because of informalities in enactment, see preceding note (Art. III, Sec. 12).

This section is an amendment adopted at the election on Oct. 22, 1901, the amendment adding two sentences (after the words "expressed in its title").

Departure from the form is not fatal: See authorities in the preceding note.

Three different readings held directory as to cities of the fourth class: See *Aurora vs. Aurora Co.*, 129 Mo. 540, 577; and as to City of St. Louis: *St. Louis vs. Foster*, 52 Mo. 513, 1. c. 515 (holding that an ordinance regularly authenticated in the revision, could not be impeached on that ground).

Changing purpose: See similar constitutional provision construed in *State ex rel. vs. Mason*, 155 Mo. 486, 502, where the court says: "This purpose means the general purpose of the bill, not the mere details through which and by which that purpose is manifested and effectuated."

No bill shall contain more than one subject, which shall be clearly expressed in the title: This clause is not violated if all the provisions are germane to the one subject, and the generality of the title is no objection so long as it is not made to deceive, or to cover legislation incongruous in itself; sound policy and legislative convenience dictate a liberal construction of the title and subject matter to maintain their validity: *St. Louis vs. Liessing*, 190 Mo. 464, 489; *State vs. Whitaker*, 160 Mo. 59; *State ex rel. vs. St. Louis*, 169 Mo. 31; *Bergman vs. Ry.*, 88 Mo. 678, 683 (Henry, J., dissenting, 685); *Senn vs. Ry.*, 124 Mo. 621, 627; *Weber vs. Johnson*, 37 Mo. App. 601; *St. Louis vs. Weitzel*, 130 Mo. 600, 615-616.

(Nearly all the above are decisions on St. Louis ordinances, but there are numerous decisions in this state upholding state statutes against a like constitutional provision, on the same principle. These cases are to the effect that the title is sufficient if not deceptive as to the chief topic, and the minor features have a natural connection with the subject named in the title. See also on this subject: *Blair vs. Chicago*, 200 U. S. 400 loc. cit. 451. The constitutional inhibition does not apply to an ordinance: *Tarkio vs. Cook*, 120 Mo. 1, l. c. 7.) But if the purpose of the bill is not expressed in the title, although the body of the bill expresses the object, it is void; it was said "the body of the bill expresses its object, the title disguises and conceals it": *State ex rel. vs. St. Louis*, 161 Mo. 371, 386 (Marshall, J., dissenting, p. 398), repeating a quotation found in *Kansas City vs. Payne*, 71 Mo. l. c. 162.

Sec. 14. Compensation of members.—Each member of the Assembly shall be entitled to receive, for his official services of every kind, annually, during his term of office, three hundred dollars, and no more; but may be paid his reasonable expenses, authorized and incurred in any such service, to be approved by the house of which he is a member. Whenever a member of the Assembly is absent, without leave from his house first obtained therefor, for an entire sitting of any meeting, he shall forfeit one dollar of his official compensation; and for this purpose the roll of each house shall be called at each meeting thereof, and the names of such absentees shall be entered upon the journal, and be reported at the close of each meeting to the auditor, who shall deduct from each member's allowance the amount of forfeitures incurred as aforesaid.

For ordinance on this subject see Rev. Code, Sec. 1378.

One not de jure but only de facto a member of the House cannot recover the salary from the City: *Sheridan vs. St. Louis*, 183 Mo. 25.

Sec. 15. Engrossment of bills.—All amendments adopted by either house, to a bill pending and originating in the same, shall be incorporated with the bill by engrossment. The engrossing shall be under the supervision of a committee of three, whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and correct.

For similar constitutional provisions for statutes see Const., Art. IV, Sec. 29.

Sec. 16. Majority vote necessary to pass bill.—No bill shall become an ordinance unless on its final passage the majority of the members elected to each house vote in its favor, and the vote be taken by yeas and nays, and the names of the members voting for and against the same be entered on the journal.

Yeas and nays: See *St. Louis vs. Foster*, 52 Mo. l. c. 515-516, citing *N. Y. case*. See as to construction of corresponding constitutional provision with respect to statutes, (Const., Art. IV, Sec. 31): *State vs. Mead*, 71 Mo. 266. The court takes judicial knowledge of the number of senators and members of state assembly: *State ex rel. vs. Mason*, 155 Mo. 486.

Sec. 17. Amendments, conference reports.—No amendment to bills by either house shall be concurred in by the other, except by a vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against, recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journal.

See substantially similar constitutional provision as to statutes: Const., Art. IV, Sec. 32.

Sec. 18. Reference to title insufficient to re-enact.—No ordinance shall be revived or re-enacted by mere reference to the title thereof, but the same shall be set forth at length, as if it were an original ordinance.

See like constitutional provision as to statutes: Const., Art. IV, Sec. 33. Construed *State ex rel. vs. Finn*, 8 Mo. App., 341; *French vs. Woodward*, 58 Mo. 66.

Sec. 19. Form of amendment.—No ordinance shall be amended by providing that designated words thereof be stricken out, or that designated words be inserted, or that designated words be stricken out and others inserted in lieu thereof; but the ordinance or section amended shall be set forth in full, as amended.

See constitutional provision, relating to statutes, Const., Art. IV, Sec. 34, construed: 96 Mo. 602; 92 Mo. 325; 47 Mo. 29; 58 Mo. 66 *supra*; 100 Mo. 439.

Sec. 20. Motion to reconsider.—When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the house proceeds to any other business.

See Const., Art. IV, Sec. 35.

Sec. 21. When ordinances to take effect.—No ordinance passed by the Assembly, except the general appropriation ordinance, shall take effect or go in force until ten days after its approval, unless in case of an emergency, (which emergency must be expressed in the preamble or in the body of the ordinance,) the Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal.

See constitutional provision as to statutes: Const., Art. IV, Sec. 36.

This provision in the charter fixing the time within which ordinances shall take effect is in the nature of a limitation upon legislative and ministerial power. It is founded in the policy of allowing a certain time to elapse within which the public may acquire knowledge of the ordinance before it shall become operative for any purpose; as in case of an act of the general assembly, so if any step founded on such ordinance is taken before it becomes operative no validity attaches to such step: *Keane vs. Cushing*, 15 Mo. App. 96, 101. ;

But an ordinance may lawfully be made to depend and be made contingent in going into effect, upon the happening of a future event within a reasonable time after the expiration of the ten days: *Construction Co. vs. Lœvy*, 64 Mo. App. 430, 432 (relying on *State ex rel. vs. Pond*, 93 Mo. 606 l. c. 621; the case was affirmed without notice of this point: 179 Mo. 255); *Sherwood, J.*, in *St. Louis vs. Howard*, 119 Mo. 41 l. c. 47.

Parol evidence and even the journal is inadmissible to show that an ordinance valid on its face was passed prior or subsequent to the date of its attestation: *Ball vs. Fagg*, 67 Mo. 481.

Sec. 22. Signing of bills—reading—objections.—No bill shall become an ordinance until the same shall have been signed by the presiding officer of each of the two houses in open session; and before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read and that, if no objections be made, he will sign the same to the end that it may become an ordinance. The bill shall then be read at length, and if no objections be made, he shall, in the presence of the house in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal, and the bill immediately sent to the other house. When it reaches the other

house, the presiding officer thereof shall announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect, as in the house in which it was first signed. If in either house any member shall object that any substitution, omission or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the house, such objection shall be passed upon by the house, and if sustained, the presiding officer shall withhold his signature.

An entry that "the speaker in open session affixed his signature thereto in accordance," etc., is sufficient to show a signature in the presence of the house: *Construction Co. vs. Loevy*, 64 Mo. App. 430, 436 (see s. c. in Supreme Court, but not noticing this point, 179 Mo. 255); and the provision requiring the presiding officer to sign in open session being the only one in this section of the charter that is mandatory, a compliance therewith is sufficient, the other provisions, such as suspending all other business, etc., being directory: *Paving Co., vs. Hunt*, 100 Mo. 22, 26.

After the bill has gone through all the legislative stages, the mere signing by the presiding officer was held to be a ministerial duty which he can be compelled by mandamus to perform in case he refuses without warrant to sign: *State ex rel. vs. Meier*, 143 Mo. 439 (Sherwood, J., dissenting); but this case was criticised as not announcing a correct rule of law by Judge Sherwood and overruled in *Albright vs. Fisher*, 164 Mo. l. c. 65, 67-68, (Brace and Gantt, JJ., dissenting on the overruling of the Meier case). The Albright case regards the duties of the presiding officer as legislative instead of ministerial and beyond the reach of the courts.

Sec. 23. Return of bills by Mayor.—Every bill, immediately after its passage in both houses, shall be presented to the Mayor, for his approval or disapproval. And the Mayor shall, within ten days after such presentation, consider and return such bill to the house in which it originated with his approval indorsed thereon or accompanied by his objection. If he approves the same it shall become a law, or in case the Municipal Assembly remain in session for ten days after such presentation, and the Mayor fails to return such bill as herein required, it shall become a law as if approved by him. Provided, that if the Municipal Assembly shall finally adjourn within ten days after any such presentation, the Mayor shall, within ten days after such adjournment, return such bill to the Register, with his approval or reasons for disapproval, otherwise it shall become a law as if approved.

For ordinance provision see R. C., Sec. 1397.

This section is as amended at the election of Oct. 6, 1885.

Under the former charter provisions there was room for doubt what effect followed the adjournment of the assembly within ten days after the passage of a bill which had not been returned by the mayor; but it was held that such bill did not become a law, otherwise it would have been in the power of the assembly to nullify the charter requiring the concurrence of the mayor in a bill: *State ex rel. vs. Carr*, 67 Mo. 38, affirming s. c. 1 Mo. App. 490. The present charter obviates the question; and an ordinance is not invalid because filed by the mayor in the register's office instead of the house, when it appears that both houses of the assembly had adjourned on the day of presentation to the mayor: *Paving Co. vs. Hunt*, 100 Mo. 22.

If the record shows the mayor's approval of a bill, the actual signature need not be proven: *Bank vs. St. Louis*, 10 Mo. App., 587 (memo. opin.)

"By the charter of St. Louis, the mayor is a part of the law-making, or ordinance-enacting, power of the city government, and his concurrence in legislative action is essential to its validity, unless the ordinance is passed over his veto": Gantt, J., in *State vs. Butler*, 178 Mo. l. c. 340, citing *Eichenlaub vs. St. Joseph*, 113 Mo. 395. When a resolution is effective and when not, see note to Art. III, Sec. 26.

Sec. 24. **Executive privilege as to items of appropriation.**—If any ordinance presented to the Mayor contain several items of appropriation, he may object to one or more items while approving other portions of the bill. In such case, he shall append to the ordinance at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the Assembly be in session, he shall transmit to the house in which the ordinance originated, a copy of such statement, and the items objected to shall be separately reconsidered. If it be not in session, then he shall transmit the same within ten days to the Register, with his approval, or reasons for disapproval.

Sec. 25. **Action on vetoes.**—Every bill presented as aforesaid, but returned without the approval of the Mayor, and with his objections thereto, shall stand as reconsidered in the house to which it is returned. The house shall cause the objections of the Mayor to be entered at large upon the journal, and proceed, at its convenience, to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the Mayor thereto notwithstanding?" The vote upon this question shall be taken by yeas and nays, and the names entered upon the journal, and if two-thirds of all the members elected to the house vote in the affirmative, the presiding officer of that house shall certify that fact on the rolls, attesting the same by his signature, and send the bill, with the objections of the Mayor, to the other house, in which like proceedings shall be had in relation thereto, and if the bill receives a like majority of the votes of all the members elected to that house, the vote being taken by yeas and nays, the presiding officer thereof shall in like manner certify the fact upon the bill. This bill, thus certified, shall be deposited in the office of the Register, as an authentic act, and shall become an ordinance in the same manner, and with like effect, as if it had received the approval of the Mayor.

For Ordinance, see R. C., Sec. 1398.

LEGISLATIVE POWERS ENUMERATED—LIMITATIONS*

***Powers of municipality in general.** A municipal corporation possesses and can exercise the following powers and no others: (1) Those granted in express words, (2) those necessarily or fairly implied in or incident to the powers expressly granted; (3) those essential to the declared objects and purposes of the corporation—not simply convenient, but indispensable.' And any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied: 1 Dillon Mun. Corp. (4 Ed.) 145, quoted and followed in *St. Louis vs. Kaime*, 180 Mo. 309, 314, 322; to same effect: *State vs. Butler*, 178 Mo. 272, 512 et seq. and cases cited; *St. Louis vs. Telephone Co.*, 96 Mo. 623; *Independence vs. Cleveland*, 167 Mo. 384, 388; *Joplin vs. Jacobs*, 119 Mo. App. 134, 138.

But the construction of power must not be so strict as to defeat the evident objects and purposes of its creation: *State ex rel. vs. Allen*, 183 Mo. 283, 291. The construction should be in accordance with the intent of the charter framers, to be gathered from the language and object of the charter provisions, and giving that language an interpretation neither strict nor strained: *St. Louis vs. Herthel*, 88 Mo. l. c. 130. See to same effect: *Railway vs. Railway*, 105 Mo. 562, 575-576.

Ordinarily, in the absence of express authority to a municipal corporation the power to confer exclusive privileges or monopolies, will not be implied as within its powers: *Kirkwood vs. Highlands*, 94 Mo. App. 637, 644; *Carroll vs. Campbell*, 108 Mo. 557; *Freeport Water Co. vs. Freeport*, 180 U. S. 587, 598; *Joplin vs. Light Co.*, 191 U. S. 150. Speaking of municipal powers in general, the U. S. Supreme Court says, in *Citizens' Ry. vs. Detroit Ry.*, 171 U. S. l. c. 53: There are reasons "which insistently forbid that the future should be committed and bound by the conditions of the present time, and functions delegated for public purposes be paralyzed in their exercise by the existence of exclusive privileges," citing many cases. But the city may exclude itself from competing with a company upon which it confers certain franchises, if the terms used are clear and explicit: *Vicksburg vs. Waterworks Co.*, 202 U. S. 453; *Walla Walla vs. Walla Walla Waterworks*, 172 U. S. l. c. 13-19. But only by express provision: *Joplin vs. Light Co.*, 191 U. S. 150.

As to specific powers under the charter see Charter, Art. I, Sec. 1, and note; also powers designated in this section (Art. III, Sec. 26). The assembly is possessed of the powers formerly exercised by the county court; see paragraph on the "transfer of functions," etc., contained in note introductory to charter "General Considerations," etc.

Legislative functions of the municipal assembly—how far subject to judicial control—fraud. As will appear from the charter and authorities hereinafter cited, all legislative powers of the city are vested in the municipal assembly, (subject to the approval of the mayor, unless the bill is passed over his veto: See note to Chart. III, Sec. 23; also Sec. 25 *supra*); but this power is limited to the extent that all ordinances relating to public work or improvements are required by the charter to emanate from the Board of Public Improvements and which the assembly cannot even amend, but only either pass or reject. (See Art. VI, Secs. 1, 14, 17, 22 and 27 and notes to those sections.)

The municipal assembly of St. Louis when engaged in the passage of an ordinance is engaged in legislative functions, and in doing so is exercising a part of the law-making powers of the State, and in so doing constitutes part and parcel of the legislative department; and hence the courts have no jurisdiction to enjoin the municipal assembly from enacting a proposed ordinance or interfering with it in any way whatsoever: *Albright vs. Fisher*, 164 Mo. 56, 60, 65, reviewing the cases and overruling *State ex rel. vs. Meier*, 143 Mo. 429 (two judges dissenting as to overruling this case); *State ex rel. vs. Bersh*, 83 Mo. App. 657, 668; (See further, *infra*, this note.)

Ordinances have the force and effect of laws within the city. The municipal assembly is a "miniature general assembly," and when acting within its sphere its ordinances are accorded the same effect as to the laws of other legislative bodies: *State ex rel. vs. Bersh*, 83 Mo. App. 657, 668; *St. Louis vs. Foster*, 52 Mo. 513; *St. Louis vs. Boffinger*, 19 Mo. l. c. 15; *Taylor vs. Carondelet*, 22 Mo. 105; *Albright vs. Fisher*, 164 Mo. l. c. 64 and cases cited; *Keane vs. Cushing*, 15 Mo. App. 96, 101; *Railway vs. Railway*, 105 Mo. l. c. 575; *Jackson vs. Railway*,

118 Mo. l. c. 218; Grand Ave. Ry. vs. Citizens' Ry., 148 Mo. 665, 671-672 and cases cited.

See further on this point comments and cases cited under introductory note to Charter (Art. I).

The municipal assembly is the authorized agent of the State so far as the State powers are delegated to it by the charter, and its acts are entitled to the same consideration as State acts: See cases above; see also cases cited under note introductory to charter, "General Considerations on the Charter": See further State vs. De Bar, 58 Mo. l. c. 397.

That the public are held to notice of ordinances within the city see note to "Ordinances" under Charter, Art. III, Sec. 12.

To the extent that a city council is clothed with legislative authority from the State it is as free from control by the judiciary as the general assembly; but it differs from the general assembly in that it is not the original and essential part of the legislative department of the state and possesses no inherent legislative power and can only exercise the power conferred by law; and an act, even strictly legislative, after having been passed by such council, may, when attempt is made to apply it to the injury of the rights of an individual, be assailed as the product of fraud or corruption; and the city council in its ministerial functions, or acting in its contractual capacity, is under judicial control: State ex rel. vs. Gates, 190 Mo. 540, 556, 559, citing cases (and distinguishing Albright vs. Fisher, 164 Mo. 56, which involved the exercise only of legislative power with which the court denied the right of interference). See also Knapp Stout & Co. vs. St. Louis, 156 Mo. 343; s. c. 153 Mo. 560; Skinker vs. Heman, 148 Mo. 349, 355; Morse vs. Westport, 136 Mo. 276. See other cases below.

When it is said that the validity of a city ordinance may be attacked after its passage on the ground of fraud in its procurement it is not meant that actual bribery or corruption must be shown, but it is sufficient if the fraud charged is of that character that has been defined to be the willful doing of an unlawful act; such fraud may be shown by parol of the acts of the municipal assemblymen; and in a condemnation proceeding the objection of invalidity may be made by the property owner without formal pleadings; the courts will look through any sham of the municipal assembly and see the truth, and the best evidence obtainable, whether documentary or oral understandings, will be received to show the real purpose of the ordinance: Kansas City vs. Hyde, 196 Mo. 498.

But generally, in attacking an ordinance as having been procured by fraud, or illegal influence, it is absolutely essential to plead the acts which constitute the alleged fraud and invalidate the proceedings: Paving Co. vs. Field, 188 Mo. 182, 203; Nagel vs. Railroad, 167 Mo. 89; Knapp Stout Co. vs. St. Louis, 153 Mo. 560; s. c. 156 Mo. 343.

Ordinances are presumptively valid, and the burden to show the contrary, or that the legal steps required in their enactment have not been observed, is on the party attacking it: See "General Note on Ordinances" to Charter, Art. III, Sec. 12, and cases there cited.

When oppressive or unreasonable. But even if an ordinance is legally enacted and within the scope of municipal power over the subject, the courts will declare it void, if it is unjust, oppressive or unreasonable, but a clear case must be presented to warrant a court in annulling the ordinance: St. Louis vs. Weber, 44 Mo. 547 (prohibiting meat shops in new city limits upheld); Springfield vs. Jacobs, 101 Mo. App. 339, 342, citing numerous cases and text writers (license tax held void); Gratiot vs. Mo. Pac., 116 Mo. 450, 467 (railroad speed ordinance held valid); Neir vs. Mo. Pac., 12 Mo. App. 25 (same); Zumault vs. K. C. Line, 71 Mo. App. 670, 676 (same held void); White vs. Railroad, 44 Mo. App. 540; Plattsburg vs. Hagenbush, 98 Mo. App. 669 (same); Skinker vs. Heman, 148 Mo. 349, citing numerous cases on p. 356 (upholding special tax legislation); Hannibal vs. Tel. Co., 31 Mo. App. 23 (holding ordinance to change location of telephone poles as previously authorized to be void where no reason therefor existed); Lamar vs. Weidman, 57 Mo. App. 507 (ordinance requiring all weighing on scales to be void); Cape Girardeau vs. Riley, 72 Mo. 220 (ordinance allowing attorney fee in collecting tax is void).

And at all events where the ordinance is sustainable only under a general grant of power and not specific authority, the reasonableness thereof may be inquired into by the courts: *Springfield vs. Starke*, 93 Mo. App. 70, 77; *St. Louis vs. Heitzeberg*, 141 Mo. 375 (holding void ordinance prohibiting emission of smoke).

See as to power to enact ordinances respecting nuisances, note to Rev. Code, Ch. 11, Art. 12 (Secs. 584 *et seq.*).

But in the exercise of powers specifically and directly granted, the municipal authorities are beyond the control of the courts and act legislatively; and their discretion cannot, at least in the absence of fraud, or caprice, be reviewed judicially (most of the instances applying this rule are those of special taxation): *Prior vs. Construction Co.*, 170 Mo. 439, 451; *Skinker vs. Heman*, 148 Mo. 349, 355-356, citing numerous cases; *Heman vs. Schulte*, 166 Mo. 409; *Heman vs. Franklin*, 99 Mo. App. 346; *Heman vs. Allen*, 156 Mo. 534; *Morse vs. Westport*, 136 Mo. 276; *Lamar vs. Weidman*, 57 Mo. App. 1. c. 513; *Kansas City vs. Trieb*, 76 Mo. App. 478. And as to avoiding ordinances for fraud, see this note above.

The enforcement of void ordinances by the city, threatening a multiplicity of suits, may be enjoined: *Sylvester Coal Co. vs. St. Louis*, 130 Mo. 325.

Unauthorized ordinances: An ordinance is void which conflicts with a charter provision, or which is not authorized by the charter, or is not enacted in essential matters as the charter provides. All powers of the municipal assembly emanate from the charter and must there find their support as the source of authority: *St. Louis vs. Kaime*, 180 Mo. 309; *State vs. Butler*, 178 Mo. 272, 299; *St. Louis vs. Clemens*, 43 Mo. 395, 404; *Ruggles vs. Collier*, 43 Mo. 353, 375; *Carr vs. St. Louis*, 9 Mo. 190; *State ex rel vs. Johnson*, 123 Mo. 1. c. 50.

In some respects the charter stands to the ordinances as the constitution does to the statutes: *Quinette vs. St. Louis*, 76 Mo. 402, 404; "the charter is the city's constitution and the common council, with the mayor's approval, is its legislative body": per Gill, in *Forry vs. Ridge*, 56 Mo. App. 1. c. 624 (holding that a meeting of the council in Kansas City is void if not at the time and place authorized by the charter).

A large municipal body, entrusted with the execution of a power, must be allowed some discretion in the choice of means, unless it appears that it was plainly intended to confine it to a prescribed mode: *Page vs. St. Louis*, 20 Mo. 136, 142.

That matters of form prescribed by charter in enacting an ordinance are usually directory only, and a departure therefrom not fatal: see note to Art. III, Secs. 12 and 13, and authorities there cited.

Uncertainty and vagueness may be such as to invalidate an ordinance (*Ramsay vs. Field*, 92 So. W. 350^o (Kans. City Ct. App.); See *State vs. Railway Co.*, 146 Mo. 155, holding a statute void); but a reference to specifications on file in an official office is enough on that subject: *Asphalt Co. vs. Ullman*, 137 Mo. 543, 571; *Becker vs. Washington*, 94 Mo. 375, 380; *Sheehan vs. Gleason*, 46 Mo. 100 (in which the court says: "An ordinance may lack desirable precision, and still may so provide for the manner in which an improvement shall be made, and be such a compliance with the law, although a loose one, that the courts would not be authorized to invalidate the action of the city officers under it.")

Delegation of authority by the assembly. The general rule is that powers which are legislative in their nature cannot be delegated by the municipal assembly as that is the purpose of its creation but powers that are merely ministerial, requiring no legislative discretion, may be delegated: *Ruggles vs. Collier*, 43 Mo. 353, 365 (no authority to delegate question whether repaving to be done); *St. Louis vs. Clemens*, 43 Mo. 395, 403; s. c. 52 Mo. 133 (no authority to delegate determination of dimensions of sewers); *Neill vs. Gates*, 152 Mo. 585, 594 (same); *St. Louis vs. Russell*, 116 Mo. 248, 255 (no power to delegate power to determine location of livery stable to lot owners); *St. Louis vs. Howard*, 119 Mo. 41, 47 (no power to permit slaughter house location to be determined by adjacent occupants of houses); *Tipton vs. Norman*, 72 Mo. 1. c. 384 (power to provide for the convenient and proper work provided by ordinance); *St. Louis vs. Lamp Co.*, 139 Mo. 560 (authorizing assembly to provide for a board to examine, in behalf of the city, applicants for licenses as engineers, dentists, etc. Such ordinances are in nature of police functions): See *Fisher vs. St. Louis*, 194

U. S. l. c. 371-372 ("the authority to delegate that discretion [singling out persons for certain privileges] to a board appointed for that purpose is sustained by the great weight of authority [citing cases] and by this court the delegation of such power even to a single individual, was sustained in *Wilson vs. Eureka City*, 173 U. S. 32, and *Gundling vs. Chicago*, 177 U. S. 183.")

The tendency of the later cases is to enlarge the power of delegation and make many acts valid that formerly would have been held unauthorized.

As to delegation in case of street improvement ordinances, see cases in note to Charter, Art. VI, Sec. 15.

See further as to when power may be delegated as ministerial the special subjects in connection with which the point is involved.

But an ordinance may be made to go into effect on a future contingency, dependent on the action of certain persons, and this is not a delegation of legislative power: See cases in note to Art. III, Sec. 21 of Charter.

Delegation of State power to city is lawful: See note introductory to the Charter.

Legislation by resolution or permit. By the charter the mayor is a part of the law-making or ordinance-enacting power of the city government and his concurrence in legislative action essential to its validity, unless the ordinance is passed over his veto: See note to Art. III, Sec. 23, citing *State vs. Butler*, 178 Mo. l. c. 340; *State ex rel. vs. Carr*, 67 Mo. 38 and other cases; see also 50 Mo. 488; 60 Mo. 153. *St. Joseph vs. Wilshire*, 47 Mo. App. 125; *Silvester vs. St. Louis*, 164 Mo. 601.

A resolution cannot accomplish that which is required to be done by ordinance: See *Young vs. St. Louis*, 47 Mo. 492 l. c. 495; *Cape Girardeau vs. Fangen*, 30 Mo. App. 551; *Trenton vs. Coyle*, 107 Mo. 193, and cases there cited; *Nevada vs. Eddy*, 123 Mo. 546; *Reed vs. Peck*, 163 Mo. 333.

Unless the action termed a resolution be in fact enacted with all the requisites of an ordinance and in fact is such: *Tipton vs. Norman*, 72 Mo. 380 l. c. 384; *Springfield vs. Knott*, 49 Mo. App. 612; *Crebs vs. Lebanon*, 98 Fed. 549. As in case of a resolution being ratified by a subsequent ordinance: *State ex rel. vs. Milling Co.*, 156 Mo. 620.

And it would seem where the assembly alone has power to act, (the concurrence of the mayor not being required) a resolution is sufficient: See 156 Mo. l. c. 632, citing *Eichenlaub vs. St. Joseph*, 113 Mo. l. c. 402; *Alma vs. Bank*, 60 Fed. 203; s. c. 8 U. S. C. C. A. 564, 567.

So where an ordinance is required, a mere order or permit of the mayor without action of the assembly, confers no authority and is void: *Lockwood vs. Ry.*, 122 Mo. 86; see also *Carroll vs. St. Louis*, 12 Mo. 444.

Ordinances of a de facto legislative municipal body are valid: *Perkins vs. Fielding*, 119 Mo. 149, 159, and cases cited; *Hilgert vs. Barber Asphalt Co.*, 107 Mo. App. 385; so, ordinances passed by acting mayor and city council of St. Louis, after the council was abolished by the adoption of the Scheme of separation, but before the adoption was known, is not necessarily void: *Adams vs. Lindell*, 72 Mo. 198, affirming s. c. 5 Mo. App. 197; *St. Louis vs. Stoddard*, 15 Mo. App. 173, 177.

Construction of charter and ordinance provisions. Where there are two charter provisions, or two ordinances, both on the same subject, one of which is special and particular upon the subject, and the other general so that if standing alone it would cover the same subject, and would conflict with the special act, the special act controls the general: *St. Louis vs. Kaime*, 180 Mo. 309, 318; *Ruschenberg vs. Railroad*, 161 Mo. 70, 82; *State vs. Butler*, 178 Mo. 272, 302; *Campbell vs. St. L. & S. Ry. Co.*, 175 Mo. 161, 176-177; *Jaicks vs. Merrill*, 98 S. W. (Sup. Ct. Mo., Dec. 22, 1906) l. c. 757.

The provisions of the charter must be so construed that effect is given to all of them: *Hill vs. St. Louis*, 159 Mo. l. c. 168; *St. Louis vs. Lane*, 110 Mo. l. c. 258; *Verdin vs. St. Louis*, 100 Mo. l. c. 122; *Jaicks vs. Merrill*, 98 So. West, 755, l. c. 757 (Sup. Ct., Dec. 22, 1906).

Construction of ordinances is for the court and should not be left to the jury: *Barton vs. Odessa*, 109 Mo. App. 76.

So the validity of an ordinance can never be left to the jury: *Fruin, etc., vs. Geist*, 37 Mo. App. 1. c. 516.

Charter provisions are construed against the implication of powers not expressly granted, but not so strictly as to defeat the municipal objects: See paragraph in this note "Powers of Municipalities," *supra*.

Nor should an ordinance be so strictly construed as to defeat the intent thereof, even in case of a public improvement to be paid for by special tax bill: See cases cited in note to Art. VI, Sec. 25.

In construing municipal ordinances dealing with important subjects it may reasonably be presumed that no provision escaped attention or was misunderstood: *Cleveland vs. Electric Ry.*, 201 U. S. 529.

The title of an ordinance may be considered in its interpretation: *St. Louis vs. Robinson*, 135 Mo. 460, 470.

As to construction of penal ordinances and their enforcement in police courts see note to Rev. Code, Sec. 1265 (citing amongst others *St. Louis vs. Robinson*, 135 Mo. 460, 470.)

Rule of *ejusdem generis*: *St. Louis vs. Laughlin*, 49 Mo. 559; *St. Louis vs. Herthel*, 88 Mo. 128; *St. Louis vs. Bell Tel. Co.*, 96 Mo. 623, 629.

The municipal assembly may define the terms used in an ordinance in the same manner as the general assembly: *St. Louis vs. Weitzel*, 130 Mo. 600.

As to certain rules of construction of ordinances, provided for by the ordinances of *St. Louis*, see Rev. Code, Secs. 1400-1410.

In the construction of ordinances, as in case of statutes, the courts lean to a construction which favors and upholds their constitutionality (*Brown vs. Ry.*, 137 Mo. 529; *Lamar vs. Weidman*, 57 Mo. App. 1. c. 513 citing *St. Louis vs. Griswold*, 58 Mo. 192; *State vs. Able*, 65 Mo. 357; and see on this point cases cited under the foregoing paragraphs that ordinances are *prima facie* valid, etc.) But this rule only applies where the ordinance is authorized by the charter: *State vs. Butler*, 178 Mo. 272, 311.

Where the construction upholds an ordinance partially, as to whether the whole ordinance is void or not, see cases on "partial invalidity of ordinances" in note to Sec. 12 of Art. III.

Liability of city exercising legislative or ministerial functions. As to liability of city for defective highways and sewers, see cases in note to Chart., Art III, Sec. 26, clause 2; change of grade, note to Art. VI, Sec. 19; condemnations for public use, Art. VI, Sec. 1; nuisances, see head note to Rev. Code, Chap. 11, Art. 11, on "nuisances," preceding Sec. 584.

As to liability of officers of city see note to Art. IV, Sec. 43.

The general rule is that the city is not liable for damages resulting from acts done or omitted by it or its officers in the exercise of its legislative, public or governmental capacity, but is liable for damages resulting from negligence in its ministerial, private or proprietary capacity: *Ely vs. St. Louis*, 181 Mo. 724; *Dinsmore vs. St. Louis*, 192 Mo. 255; *Ruppenthal vs. St. Louis*, 190 Mo. 213; *Murtaugh vs. St. Louis*, 44 Mo. 479; *Barree vs. Cape Girardeau*, 197 Mo. 382; *Donohue vs. Kansas City*, 136 Mo. 657; *Heller vs. St. Louis*, 53 Mo. 159; *McKenna vs. St. Louis*, 6 Mo. App. 320; *Ulrich vs. St. Louis*, 112 Mo. 138; *Johnston vs. Dist. Col.*, 118 U. S. 21; *Gulath vs. St. Louis*, 179 Mo. 38; *Fuchs vs. St. Louis*, 167 Mo. 620; *St. Louis vs. Gurno*, 12 Mo. 414; *Foster vs. St. Louis*, 71 Mo. 157; *Kansas City vs. Lemen*, 57 Fed. (C. C. A.) 905.

Hence the city is not liable for failure to enforce its own ordinances: *Kiley vs. Kansas City*, 89 Mo. 103; *Armstrong vs. Brunswick*, 79 Mo. 319; *Moran vs. Pullman Car Co.*, 134 Mo. 641, 651; *Harman vs. St. Louis*, 137 Mo. 494, 499; *Loth vs. Columbia Theatre Co.*, 197 Mo. 328, 357 and cases cited on p. 358. Nor for cases of defective legislation: *Carroll vs. St. Louis*, 4 Mo. App. 191; *Saxton vs. St. Joseph*, 60 Mo. 153. Nor where its officers act under a void ordinance believed to be valid: *Worley vs. Columbia*, 88 Mo. 106; nor for a trespass committed by its officers: *Quinn vs. Schneider*, 118 Mo. App. 39.

Liability of private persons inter sese for violation of ordinances was long a mooted question in Missouri. It is now held that a violation of a police regulation ordinance affords the basis of a civil liability in favor of one injured in consequence thereof: See authorities cited in note to Sec. 1864 of Rev. Code, especially *Sluder vs. Transit Co.*, 189 Mo. 107, where the question is elaborately discussed and the authorities on both sides are fully collated in both the majority and dissenting opinions, with suggestions as to the limitation as well as application of the principle involved. That case has since been uniformly followed as the law of the state.

Sec. 26. Legislative powers vested in Mayor and Assembly.—The Mayor and Assembly shall have power within the city, by ordinance not inconsistent with the constitution, or any law of this State, or of this charter—

First—To levy and collect taxes, borrow and appropriate money.—To assess, levy and collect all taxes for general and special purposes, on real and personal property and licenses and on any or all of the subjects or objects of taxation which the municipality may tax under the Constitution and laws of this State; to borrow money on the faith and credit of the city, by the issue or sale of bonds or notes, for such amounts, and for such time, and for such purpose as may be required for current expenses, and for payment of maturing bonds and for such other purposes as may be authorized by this Charter or by the Constitution of this State in force at the time; but no note for the purpose of borrowing money shall be made or issued for a longer period than twelve months; to appropriate the money of the city for legitimate purposes, and provide for its debts and expenses.

Negotiable bonds of the city in the form of coupon bonds or registered bonds or both, or coupon bonds with the privilege of registration, may be issued from time to time within the limits prescribed by the Constitution of this State in force at the time for any one or more of the following purposes, to-wit:

1. For the completion of the City Hall in progress of construction.
2. For the construction and extension of water works or the purchase of the same, and the purchase of any land for that purpose, bonds for this purpose to be issued so as to comply with the provisions of the Constitution in force at the time of the issue thereof.
3. For the construction, reconstruction and extension of public sewers and the purchase of land for such purpose.
4. For the construction and reconstruction of buildings for the Fire Department, and the purchase of sites for such buildings.
5. For the construction, reconstruction and extension of bridges and viaducts, and the purchase of land for such purpose.
6. For the construction, reconstruction and extension of hospitals, Insane Asylum, Poor House, and the House of Refuge, and the purchase of sites for the same.
7. For the construction, reconstruction and extension of court houses, jails and work houses, and the purchase of sites for the same.
8. For the creation and laying out of public parks and squares, and the purchase of land for the same.
9. For the construction, reconstruction, purchase, acquisition or extension of any other public buildings or any other public improvements of

a permanent character which the city is or may be authorized or permitted under its charter to construct, reconstruct, purchase, acquire or extend, and also to purchase land for the same, and the enumeration of the specific purposes in the preceding paragraphs numbered one to eight, inclusive, shall not be construed to qualify or limit the general provisions of this paragraph nine.

10. For refunding or renewing from time to time any bonded indebtedness of the city existing at the time.

No bonds of the city, except bonds for refunding or renewing bonded indebtedness, shall be issued under the provisions of this Paragraph First of Section 26, without the assent of two-thirds of the qualified voters of the city voting at an election to be held for that purpose. The Mayor and Assembly may from time to time by ordinance prescribe the manner of holding such election, the time and manner of giving notice of such election, the form of question to be submitted, the form of ballot and the method of conducting, canvassing and declaring the result of such election, and all such other proceedings and things as may be necessary or proper to do with respect to any such election, and the issue and sale of such bonds. It shall not be necessary in the ordinance calling the election, in the notice of election, in the question submitted, or in the ballot, or in any of the matters preceding the said election, for the Mayor and Assembly to state the amount of bonds proposed to be issued for each purpose, but it shall be sufficient if the ordinance and notice of election state the total amount of the bonds proposed to be voted upon at the particular election then to be held, and in general language the purpose or purposes for which such total amount of bonds is to be issued, and if two-thirds of the voters of the city voting at such election assent to the issuance of such amount of bonds, then such amount of bonds may be issued and such bonds or the proceeds thereof may from time to time by ordinance be appropriated by the Mayor and Assembly in such amount or amounts as they may determine to the purpose or purposes for which such total amount was voted.

Such bonds, after having been assented to by the voters of the city as aforesaid, may be issued from time to time in such amounts, not exceeding in the aggregate the total amount assented to by the voters, and in such form and containing such recitals and provisions, and payable in such kind of money, and bearing such rates of interest, and executed by such executive officers of the city, and sold at public or private sale by such officers and in such manner as may from time to time be prescribed by ordinance. Refunding or renewal bonds as aforesaid may be so issued from time to time without any vote of the voters of the city.

Bonds issued under the provisions of this Paragraph First of Section 26, requiring the assent of the voters of the City of St. Louis, under the Constitution of the State, may be made payable at such times that one-twentieth of the total amount of each issue of such bonds shall be payable each year, beginning one year from the date of the bonds, and so that the entire amount of each issue of such bonds shall be paid within twenty years from the date thereof, the city shall, before or at the time of issuing of any such bonds, provide by ordinance for the collection of an annual tax sufficient to pay the interest on such bonds as it falls due, and also sufficient to constitute a sinking fund for the payment of one-twentieth of the principal thereof annually, and for the payment of the entire principal thereof within twenty years from the time of contracting the indebtedness evi-

denced by such bonds; or the entire issue of such bonds may be made payable at any one time not exceeding twenty years from their issue, and the city shall, before or at the time of issuing any such bonds, provide by ordinance for the collection of an annual tax sufficient to pay the interest on such bonds as it falls due, and also sufficient to constitute a sinking fund for the payment of the entire principal thereof within twenty years from the time of issuing the same.

The authority above given to issue bonds for any of the purposes aforesaid is cumulative, and shall not be construed to take away, affect or impair any authority of the city or any of its officers to make any public improvements under any other provisions of the charter of the city or of the laws of the State, but the authority above given shall be construed as an additional authority.

Amendments: This (first) paragraph was last amended at the charter amendment election (held on June 23, 1903, pursuant to ordinance No. 21105.) It amended the former provision by designating specifically the objects for which bonds could be issued, it being deemed doubtful whether such power existed under the former general provision. The amendment added that portion beginning with "Negotiable bonds of the city," etc., to end of clause. The city availed itself of these powers at the bond election on June 12, 1906, in pursuance of ordinance 22366 and the issuance of bonds was authorized for each subject enumerated in the nine clauses. This section had also been amended at the charter amendments election of Oct. 22, 1901, pursuant to ordinance 20444. The issuance of the bonds was held valid by the Supreme Court as to all the subjects in general, but as to the Free Bridge bonds in particular, in the case of Haeussler vs. St. Louis, (in banc, July 2, 1907, not yet reported).

Power to assess, levy and collect taxes: See notes to Chart., Art. V.

Appropriate for legitimate purposes: See note to Art. III, Secs. 30 and 33; XVI, Sec. 11.

Borrow money: Power limited by Constitution, Art. IX, Sec. 19; Art. X, Sec. 12. By the amendments to the latter section, passed in 1900, the city was authorized to issue the then proposed five millions in bonds in aid of the World's Fair. (This was done by ordinances 20641 and 20758; see ordinance to issue bonds in renewal of one million dollars in former city bonds: Ord. 21543 and 22865, and ordinance authorizing the issuance of bonds for each of the purposes specifically enumerated in the above charter section; see ord. 22366; ordinance declaring result of election called by latter ordinance, and directing the issue of said bonds for \$11,200,000 see ord. 22674). The bond issue for the Free Bridge across the Mississippi was sustained (amongst other grounds) as being within the debt limit allowed by the Constitution to St. Louis, in the case of Haeussler vs. St. Louis, decided in banc by Supreme Court, July 2, 1907 (not at this writing reported), discussing also the right of the city in general to issue bonds. See the provisions of the Constitution referred to as to the limit of indebtedness and the manner in which bonds can be issued, and the note appended to Sec. 12 of Art. X of the Constitution. See also discussion generally on the subject in note to Charter, Art. V, Sec. 1, herein; and also McQuillin's (unofficial) work "Amend. Chart.," introductory note pp. 124 *et seq.*; and his note on pp. 280-282; also Pryor vs. Kansas City, 153 Mo. 135, 151. As to what is included under the term "indebtedness" in the Constitution, see Saleno vs. Neosho, 127 Mo. 627, 638; and State ex rel. vs. Neosho, 101 S. W. 99 (Sup. Ct., Mar. 30, 1907). Charter provisions as to sinking fund for payment of city bonds see Art. XIV, Secs. 1-4. As to ordinances concerning sale, transfer and payment of bonds, etc., see Rev. Code, Chapter 37, Secs. 2390-2405; and as to provisions concerning water bonds, see R. C., Chap. 39, Art. 2, secs. 2528-2530, and Charter, Art. VII, Secs. 11, 13.

Second—To establish, improve, light, sprinkle, etc., streets—condemn property—repair streets, bridges, etc.—water courses—water works—police and fire departments.—To establish, open, vacate, alter, widen, extend, pave, or otherwise improve, and sprinkle all streets, avenues, sidewalks, alleys, wharves and public grounds and squares, and provide for the payment of the costs and expenses thereof in the manner in this

Charter prescribed; and also to provide for grading, lighting, cleaning and repairing the same, and to condemn private property for public uses, as provided for in this Charter; to construct and keep in repair all bridges, streets, sewers and drains, and to regulate the use thereof, and to confine, wall up, cover over, alter or change the channel of water courses; to establish and maintain waterworks for fully supplying the city with wholesome water, and to distribute the same for public and private uses in such manner and upon such terms as shall be provided by ordinance; to establish and maintain a sanitary system, a system of police and a fire department; *Provided*, That no system of police shall be established or maintained, other than the present metropolitan system, as long as the same is established by law.

Establishment of streets, street openings, widenings, condemnation proceedings, etc., see Art. VI of Charter, Secs. 1-12, and notes and comments thereto appended.

Construction of streets, alleys, improvements, etc., see notes to Charter, Art. VI, Secs. 14-18, and of **sewers** *ib.* Secs. 20-23.

Special tax bills for public improvements see notes to Chart., Art. VI, Secs. 24-26, 14, etc.

Street sprinkling, see Art. VI, Sec. 29.

Damages for change of grade: See note to Charter, Art. VI, Sec. 9.

Use of streets by electric companies for such purposes as telegraph and telephone poles, conduits, manholes, subways, etc., is discussed in notes to Rev. Code, Chap. 12, Art. 6, Secs. 1093, 1179, 1195, 1188, in connection with the ordinances on the subject.

What included in terms street, alley, highway, etc., see note to Art. VI, Sec. 1.

Condemnation, dedication, diversion to different use, ownership of fee in streets and interests of abutting owners, see discussion in notes to Charter, Art. VI, Sec. 1.

Improvements of streets, etc., see Art. VI, Secs. 14, 15, 24-28.

For what purposes streets may be used—the use of the streets must be a public one—appropriation to private use is void—temporary obstructions, when permitted. The State holds a proprietary right in roads and streets in trust for the people; and to perform the trust the legislative authority is allowed such control that it may authorize structures to be built therein for the public use, even if some kinds of travel are thereby impeded: *Morie vs. Transit Co.*, 116 Mo. App. 1. c. 22.

The right of the public to the free and unrestricted use is subject to reasonable limitations and restrictions, such for instance as delivery of fuel, goods, etc.; temporary obstructions of this kind are not invasions of the public easement, but incidents to or limitations of it, and can be justified when, and only so long as, they are reasonably necessary; and when unreasonably prolonged or done, such obstruction is unlawful: See as to right to temporary obstructions of streets and highways note to Rev. Code, Sec. 928, and authorities there cited. Many structures in the streets may be justified under legislative or municipal sanction which would otherwise be a nuisance: *Seibert vs. Railroad*, 188 Mo. 657 1. c. 670; *Morie vs. Transit Co.*, 116 Mo. App. 12, and authorities; *Belcher S. & R. Co. vs. St. L. G. E. Co.*, 101 Mo. 1. c. 204.

The legislature has paramount authority over all public highways, no matter how acquired, which it has to a large extent delegated to the city of St. Louis over the streets therein; the power to regulate the use is not limited to a mere right of way, but extends to all beneficial uses which the public good and convenience may from time to time require. New uses for streets and highways are constantly arising. As civilization advances new uses may be found expedient. All these and many others may be made of the streets without the consent of the lot owners. Private rights must yield to them, without compensation: *Ferrenbach vs. Turner*, 86 Mo. 1. c. 419; *Julia Bing. Co. vs. Bell Tel. Co.*, 88 Mo. 258; see also *Louis vs. Bell Tel. Co.*, 96 Mo. 623; *W. U. Tel. Co. vs. Guernsey Light Co.*, 46 Mo. App. 120, 134; *Laclede Gas Co. vs. Murphy*, 170 U. S. 78. The words "to regulate the use thereof" are of broad import and confer compre-

hensive powers on the city: *Sluder vs. Transit Co.*, 189 Mo. 107, 129; *St. Louis vs. West. Un.*, 149 U. S. 1. c. 469.

Gas, water, sewer pipes and the like are proper uses: *Ferrenbach vs. Turner*, 86 Mo. 1. c. 420. Stepping stones, hitching posts, etc.: *Wolff vs. Dist. Col.*, 196 U. S. 152 and cases cited; but see *Fischer vs. St. Louis*, 189 Mo. 567. In *N. O. Gas Co. vs. Drainage Com'rs*, 197 U. S. 1. c. 461, the court says that "the need of occupation of soil beneath the streets in cities is constantly increasing for the supply of water and light and the construction of systems of sewerage and drainage," etc.

So of telephone and telegraph poles and wires, underground conduits, manholes and subways: See cases cited in note to Sec. 1093 of Rev. Code.

Where the proposed extension by ordinance would end in a blind street or *cul de sac*, and for that reason not for a public use, it may be shown that another extension is proposed, to connect with the former so as to make a through street: *Kansas City vs. Hyde*, 196 Mo. 498.

A bridge from St. Louis to Illinois, across the Mississippi River is a proper highway for a municipality to provide: *Haeussler vs. St. Louis* (Sup. Ct. July 2, 1907, not yet reported).

But the streets and highways, whether dedicated or condemned, are held by the public authorities in public trust, primarily for the free and common use of the whole public, with special privileges to none, and secondarily for the benefit of abutting property owners to afford access to their property: *Corby vs. Railroad*, 150 Mo. 1. c. 468.

The public highways belong from side to side and end to end; to the public, and the public are entitled to a free passage along any portion of it: *State ex rel. vs. St. Louis*, 161 Mo. 1. c. 383, quoting from prior decisions; *Schopp vs. St. Louis*, 117 Mo. 131, 136-137; *Loth vs. Columbia Theatre*, 197 Mo. 328 (citing numerous authorities); *State ex rel. vs. Vandalia*, 119 Mo. App. 406, 417, and cases there cited.

Hence an ordinance the effect of which is to subject a street to the advertising of individual business of one person, by providing for placing boxes for waste matter on the streets, with the exclusive privilege of advertising thereon by the contractor, is void: *State ex rel. vs. St. Louis*, 161 Mo. 371; so also where the advertisement takes the form of a permanent balcony supported by posts in the streets; but a sign by an abutting owner so high as not to interfere with the public easement, and securely fastened, is not a nuisance per se: *Loth vs. Columbia Theatre*, 197 Mo. 328, (discussing numerous authorities as to when and what obstructions in the streets are unlawful). A city cannot authorize the occupation of a part of a main street by a structure containing farm scales and a corn sheller operated by machinery so that travel on that side is impeded: *State ex rel. vs. Vandalia*, 119 Mo. App. 406 (holding such structure a nuisance). The city has no power by ordinance to lease out portions of the street for huckster or produce stands. *Schopp vs. St. Louis*, 117 Mo. 131, 136; see also, *Railway Co. vs. Ins. Co.*, 154 U. S. 515 (holding a lease of a street void, though its declivity was such as to be of little use to the public). Private scales are not a public purpose and cannot be maintained in the street; *Coal Co. vs. Coal Co.*, 62 Mo. App. 93. Nor can the city of St. Louis "vacate" a street by ordinance for a certain time during which period it is to be used by a private concern, and thereafter again to be used as a street: *Glasgow vs. St. Louis*, 87 Mo. 678. It is not competent for the city to create a street in the name of the public, for the purpose of vacating it in the interest of whom it may concern, nor to establish a street or a system of streets at the expense of the property owners in the district for the use of a private individual or a number of individuals: *Kansas City vs. Hyde*, 196 Mo. 498. Nor will the power in the charter authorize an ordinance that houses fronting on a certain street shall be used for residence purposes only: *St. Louis vs. Dorr*, 145 Mo. 466, 472, 485.

Unauthorized obstruction of a street or highway is a nuisance: See discussion and authorities in introductory note to Rev. Code, Chap. 11, Art. 12 (preceding Sec. 585). See also below on this point. Power to remove, see also Charter, Clause 9, of this section and article, and ordinances R. C., Secs. 932 *et seq.*

Steam railroads in a street, sidewalk or alley so narrow or so operated that the use of the street by the railroads will destroy the use of the street by the public as a highway, are nuisances, and an ordinance purporting to permit such use or confer such right is void because an appropriation of a street to inconsis-

ent uses, and as destroying the rights of the abutting property holders, and injunctive relief may be had: *Lockwood vs. Wabash*, 122 Mo. 86, and cases cited; *Dubach vs. Railway*, 89 Mo. 483; *Morie vs. Transit Co.*, 116 Mo. App. 1. c. 24 *et seq.* citing numerous authorities; *Lackland vs. Railroad*, 31 Mo. 181; *Lumber Co. vs. Railroad*, 129 Mo. 455 (sidewalk obstruction—awarding injunction); *Corby vs. Railroad*, 150 Mo. 457 (alley—same) citing authorities; *Knapp, Stout & Co. vs. Railroad*, 126 Mo. 26; *Sherlock vs. Railroad*, 142 Mo. 172; nor can the city condemn private property for a street in order afterwards to give it over to a railroad to be used for switches: *Kansas City vs. Hyde*, 196 Mo. 498.

But a switch, part of the road, is not a private use but a public one: *Knapp, Stout & Co. vs. Ry.*, 126 Mo. 26; *Brown vs. Railway*, 137 Mo. 529.

And unless it be shown that the use by the steam road will practically destroy the use of the street by the public the ordinance authorizing such use will not be held void, although in the more recent cases the tendency is toward more strictness against the railways: *Morie vs. St. Louis Transit*, 116 Mo. App. 1. c. 25, citing the authorities, especially *Sherlock vs. Ry.*, 142 Mo. 172; and see *Geofray vs. Merch. Bridge*, 179 Mo. 698; *St. Louis Transfer vs. Merch. Bridge*, 111 Mo. 666; *Brown vs. Ry.*, 137 Mo. 529; *Randle vs. Ry.*, 65 Mo. 325.

Nor can the city authorize a private steam road to use the street for private purposes: *Glaessner vs. Anheuser-Busch*, 100 Mo. 508; see also *Brown vs. Ry.*, 137 Mo. 1. c. 537.

See further as to when steam railroads are nuisances in the streets note to R. C., Chap. 11, Art. 12, on "nuisances."

The rights of abutting owners as affected by steam roads is fully discussed and the authorities collated, in *De Geofray vs. Merch. Bridge Co.*, 179 Mo. 698, and it is held that no action lies where the road is built on the grade (only on the doctrine of *stare decisis* but that an action lies where the road is not built on the grade or street level. The court holds the tendency to be toward more liberal relief against railroads in favor of property holders and that if the question were new damages could be recovered even if the road be on the grade.

Street Railways in the streets, however, are not in all respects governed by the considerations applicable to steam roads in the streets, and the decisions above cited relating to the latter do not apply to street railways unless the tracks of such street roads are so defectively or peculiarly constructed as to prevent the current use of the highway by the public in the ordinary course of travel: *Placke vs. U. D. Co.*, 140 Mo. 634, 637; see also discussion in *Morie vs. Transit Co.*, 116 Mo. App. 12, 25 and cases cited. But the same principle applies to street as to steam roads: See *Nagel vs. Street Railway*, 167 Mo. 89, 97. See as to the difference between the power of the city over steam and street roads *State ex rel. vs. Corrigan*, 85 Mo. 263, 275 and cases cited.

The street car company (like a steam road) must lay its tracks on the street level or be liable to abutting owners for damages: *Farrar vs. Electric Co.*, 101 Mo. App. 140. (And see Rev. St. 1899, Secs. 6116-6119, providing for assessment of damages before the grant by any city of a franchise to any elevated, underground or other street railway, on, over or under any street, etc. This act applies to surface street railways: *Ruckert vs. Grand Ave. Ry.*, 163 Mo. 1. c. 276, but it confers no right to damages where none would exist before its enactment: *Nagel vs. Lindell*, 167 Mo. 89, 98; *Ruckert vs. Grand Ave. Ry. supra*. And the right of the public over the highway is paramount; so that the city, when changing conditions and increasing travel in a navigable stream under which the street car company operates through a tunnel make it necessary, may require the company at its own expense to lower such tunnel and increase thereby the depth of the water: *West Chicago Ry. vs. Chicago*, 201 U. S. 506.

The city has no power to confer on one street car company the exclusive use of a street for its own business; and other companies cannot be excluded from using its tracks on making just compensation (Charter, Art. X, Sec. 6, Rev. Code, Secs. 1894-1899): *Grand Ave. Ry. vs. Citizens' Ry.*, 148 Mo. 1. c. 672, and cases cited; *Railway vs. Railway*, 132 Mo. 34, 43 and cases cited.

As to the rights and powers of the city over street railways see Charter, Art. X; also Art. III, Sec. 26, Clause 11; ordinances R. C., Sec. 1863 and following.

Vacating streets: A street cannot in one ordinance be lawfully "vacated" for a definite period, after which it is again to become a street: *Glasgow vs. St. Louis*, 87 Mo. 678, 682. A street cannot be created for the purpose of vacating it in the interest of whom it may concern: *Kansas City vs. Hyde*, 196 Mo. 498.

The question whether or not a street or alley shall be vacated is wholly within the legislative discretion of the municipal assembly, with which (in the absence of fraud) the courts cannot interfere: *Knapp, Stout & Co. vs. St. Louis*, 156 Mo. 343; *Glasgow vs. St. Louis*, 107 Mo. 198; as to what is fraud in vacating street see *Kansas City vs. Hyde*, *supra*.

As to when the courts will interfere for fraud in enacting an ordinance see note introductory to this article (III, Sec. 26).

Nor can any but an abutting owner complain: *Knapp, Stout & Co. vs. St. Louis*, 156 Mo. 343; s. c. 153 Mo. 560; *Glasgow vs. St. Louis*, 107 Mo. 198.

When a street is vacated the abutting owners take the land free from the former easement: *Thomas vs. Hunt*, 134 Mo. 403.

A highway cannot be in effect vacated by way of estopping the city from claiming it to be public property because included in an action to condemn private land for public use: *Moses vs. St. L. Sect. Dock Co.*, 84 Mo. l. c. 246-247.

But for the vacation of a street or alley the abutting owner is entitled to recover any special damage he may suffer thereby. His right is a property right and the vacation is subject to the constitutional provision against taking or damaging private property without just compensation, for which the courts of law will furnish him an adequate remedy, but not always an injunction: *Christian vs. St. Louis*, 127 Mo. 109; *Heinrich vs. St. Louis*, 125 Mo. 424 (discussing the lot owner's right to damages).

An ordinance, it was said, declaring an alley vacated is insufficient, because the abutting property owners have rights which could not be taken from them by the mere passage of an ordinance: *Mitchell vs. Railroad*, 116 Mo. App. 81, 88. Upon vacation of a street or alley the title reverts to the abutting property owners: *ib.*; see also note under Art. VI, Sec. 1, as to rights of abutting owners.

Liability for damages for defective streets, sidewalks, etc. The city having undertaken to open a street for pedestrians and vehicles is bound to keep the same in repair and reasonably safe for travel by day and by night, and is liable for injuries from neglecting this duty.

The cases on this subject are numerous, as well those applying the rule as those recognizing exceptions and limitations, but as this matter is one of general rules of law not specially affected by our charter and ordinances, a detailed discussion thereof would be out of place in a revision.

It may, however, be mentioned that the burden of keeping the street or sidewalk in a reasonably safe condition is not a police but a governmental duty which can not be shifted by the city upon a tenant who is not the owner, without his consent: *Ford vs. Kansas City*, 181 Mo. 137 (holding such provision void).

But the rule as to requiring the abutting owner to clear away snow and ice is held to be based upon the police power and is valid; but will not furnish the basis of a civil action to a private individual against such owner, nor enable the city, after being compelled to pay damages, to recover against the owner: See note and comments to Rev. Code, Sec. 1234 and cases there referred to. (As to liability of city for ice and snow on street see *infra*, this note.)

The duty to keep the streets safe for travel rests upon the city, and the city will be primarily liable for a failure to do so although by ordinance or agreement such duty is cast upon a street car company (*Springfield vs. Ry.*, 69 Mo. App. l. c. 523) or a market company (*Blake vs. St. Louis*, 40 Mo. 569, 571) or an abutting owner to keep a sidewalk free of ice, etc. (*Norton vs. St. Louis*, 97 Mo. 537).

But a municipality against which judgment is recovered for a defective street, resulting from the negligence of another, has a remedy over against the latter: *Gaslight Co. vs. Dist. Col.*, 161 U. S. 316.

The city is not liable for acts done in its governmental capacity, but only in its ministerial capacity and hence is not liable for injuries on streets or sidewalks, or parts thereof, which it never assumed to improve: *Ely vs. St. Louis*, 181 Mo. 724; *Ruppenthal vs. St. Louis*, 190 Mo. 213; *Hannibal vs. Campbell*, 86 Fed. (C. C. A.) 297;

Nor where there is no negligence in the execution but only in the plans: *Foster vs. St. Louis*, 71 Mo. 157; see cases cited in introductory note to this article.

Nor for failure to enforce its own ordinances; (see same note).

Nor for injuries on a street it did assume to take charge of and improve, if in fact it is not in the city limits: *Steeley vs. Kansas City*, 179 Mo. 400. See also *St. Louis vs. University*, 88 Mo. 155. But if the city by ordinance provides for improving a street it will be presumed that it is in the city limits: *Kansas City vs. Block*, 175 Mo. 433; and the city is liable where by an extension of its boundaries it takes in what prior thereto was a state road; it does not inherit the State's immunity: *Foster vs. Kansas City*, 114 Mo. App. 728. So the city is liable where it extends its sidewalk onto private property in such a manner that the line of demarcation cannot be distinguished: *Deland vs. Cameron*, 112 Mo. App. 704; *O'Malley vs. Lexington*, 99 Mo. App. 695; and for injuries resulting from excavations on private property so near the street that one using the sidewalk is injured by falling into the excavation: *Wiggins vs. St. Louis*, 135 Mo. 558; compare also *Hannibal vs. Campbell*, 86 Fed. (C. C. A.) 297, 301.

As to necessity of showing acceptance of dedication as street and what sufficient to show there is a street, see cases cited herein below.

Amongst the recent cases discussing the liability of the city for defective streets or sidewalks may be named the following: Projecting sign falling on pedestrian on street from above: *Loth vs. Columbia Theatre*, 197 Mo. 328. For injury on unimproved sidewalk—contributory negligence as matter of law: *Ruppenthal vs. St. Louis*, 190 Mo. 213. Same subject—cinder walk—what is evidence of assumption of jurisdiction by city of duty to repair: *Dinsmore vs. St. Louis*, 192 Mo. 255. Injury by servant of city assaulting conductor of street car to prevent passing repair-point in street: *Barree vs. Cape Girardeau*, 197 Mo. 382. For injury caused by stepping-stone on sidewalk—contributory negligence not as a matter of law: *Fischer vs. St. Louis*, 189 Mo. 567. Injury on sidewalk—subsequent repair: *Bailey vs. Kansas City*, 189 Mo. 503. Injury on defective sidewalk: *Conner vs. Nevada*, 188 Mo., 148. Obstruction of sidewalk—respective liability of property owner and city: *Perrigo vs. St. Louis*, 185 Mo. 274; *Carvin vs. St. Louis*, 151 Mo. 334 (same). Injuries to driver—dangerous cross-grade—contributory negligence: *Kaiser vs. St. Louis*, 185 Mo. 366. Excavation causing wall of building to fall: *Gerst vs. St. Louis*, 185 Mo. 191. Sidewalk defective: *Halloway vs. Kansas City*, 184 Mo. 19; same: *Ford vs. Kansas City*, 181 Mo. 137. Unimproved walk—governmental or ministerial duty: *Ely vs. St. Louis*, 181 Mo. 724. Entire width of street or walk once opened to public to be kept safe: *Kossmann vs. St. Louis*, 153 Mo. 293, 299 (street); *Coffey vs. Carthage*, 186 Mo. 573 (sidewalk—space between pavement and curbing); *Fockler vs. Kansas City*, 94 Mo. App. 464 (same). Obstructing sidewalk—third parties—when lawful: *Hesselbach vs. St. Louis*, 179 Mo. 505. Man-hole in street—contributory negligence in law: *Wheat vs. St. Louis*, 179 Mo. 572. Cellar door in sidewalk—notice: *Fehlhauser vs. St. Louis*, 178 Mo. 635. Water-meter box in sidewalk—notice—hidden defect: *Carvin vs. St. Louis*, 151 Mo. 334. Obstruction of sidewalk by loose counter—children playing in street: *Straub vs. St. Louis*, 175 Mo. 413. Defective sidewalk—notice in time to repair: *Beauvais vs. St. Louis*, 169 Mo. 500. Ice and snow on city sidewalks: *Reno vs. St. Joseph*, 169 Mo. 642 (irregular icy ridges); same: *Reedy vs. St. Louis*, 161 Mo. 523. Same: *Peters vs. St. Joseph*, 117 Mo. App. 499. Same: *Quinlan vs. Kansas City*, 104 Mo. App. 616. Defective street—timely notice of defect: *Ball vs. Neosho*, 109 Mo. App. 683, 693 and cases cited. Ditch in street, unguarded and unlighted: *Jackson vs. Kansas City*, 106 Mo. App. 52; *Lindsey vs. Kansas City*, 195 Mo. 166 (same). Defective sidewalk—no notice—no knowledge: *Doherty vs. Kansas City*, 105 Mo. App. 173. Same: *Gerber vs. Kansas City*, 105 Mo. App. 191. Stone falling from wall alongside street: *Franke vs. St. Louis*, 110 Mo. 516; *Grogan vs. Co.*, 87 Mo. 321. Slippery mud on sidewalk: *Milledge vs. Kansas City*, 100 Mo. App. 490, distinguishing *Badgeley vs. St. Louis*, 149 Mo. 122.

Dedication of street not necessary. What is assumption of possession of street or walk by city sufficient to impose on it the duty to repair: See the following cases: *O'Malley vs. Lexington*, 99 Mo. App. 695; *Dinsmore vs. St. Louis*, 192 Mo. 255; *Maus vs. Springfield*, 101 Mo. 613; *Meiners vs. St. Louis*, 130 Mo. 274 (showing when dedication and acceptance by city need or need not be shown); and as to when land becomes a street, see further, note to Art. VI, Sec. 1.

Control over sewers, conferred by Art. III, Sec. 26, Clause 2, "to regulate the use thereof," authorizes an ordinance (now Sec. 2304 of R. C.) requiring payment of a special tax bill before a lot owner may get connection therewith: *Hill vs. St. Louis*, 159 Mo. 159. A city's right to lay sewers necessary for the public health is paramount to a company's right to water pipes laid in pursuance of an ordinance: See *Nat'l Water Works Co. vs. Kansas City*, 28 Fed. (C. C.) 921; *New*

Orleans Gas Co. vs. Drainage Comr's, 197 U. S. 453 (maintaining the city's right to compel change of location at the company's expense).

As to sewers and special tax bills therefor see Charter, Art. VI, Secs. 20-26 and notes thereto.

Liability of city for insufficient or defective sewers and for overflows and surface water. There is no liability for overflow occasioned by an extraordinary and unusually heavy rainfall, nor where the sewer is sufficient to carry off the water under ordinary conditions: *Gulath vs. St. Louis*, 179 Mo. 38 (Mill Creek sewer); nor is there any liability, even if the sewer is insufficient and out of repair, if the excessive rainfall would have produced the same damage whether the city had been negligent or not: *Brash vs. St. Louis*, 161 Mo. 1. c. 440, followed in *Gulath vs. St. Louis*, supra. But if the defects in the sewer are the result of municipal negligence and cause damage or contribute with other causes to do so, the city is liable: *Brash vs. St. Louis*, 161 Mo. 433.

Where the city is sought to be held for a sewer explosion it is incumbent on plaintiff to show the cause of the explosion to be due to the city's culpable neglect: *Fuchs vs. St. Louis*, 167 Mo. 620.

The city cannot be held for injuries resulting from causes which it could not in the exercise of ordinary caution and foresight have anticipated: *Fuchs vs. St. Louis*, 167 Mo. 620.

Upon the question of liability for insufficiency in the plan under which the sewer was built, so as to make it inadequate even when it is not out of repair and there is no neglect causing obstructions, etc., see *Gulath vs. St. Louis*, 179 Mo. 1. c. 53 (where the question was raised but the case decided on other grounds; see cases cited in briefs of respective counsel); *Steinmeyer vs. St. Louis*, 3 Mo. App. 256; see also *Foster vs. St. Louis*, 71 Mo. 157 (overflows caused by defective plan of street grade, city not liable); *Johnston vs. Dist. Col.*, 118 U. S. 19.

As to liability of city for changing the flow of surface waters, see *Rychlicki vs. St. Louis*, 98 Mo. 497; *Stewart vs. Clinton*, 79 Mo. 603; *Foster vs. St. Louis*, 71 Mo. 157, and cases cited on p. 158; *Payne vs. Ry.*, 112 Mo. 6; *Barns vs. Hannibal*, 71 Mo. 449; *Carson vs. Springfield*, 53 Mo. App. 289. And see as to pollution of streams, obstruction, etc., being nuisances: note to subject of "nuisances" in Rev. Code, Chap. 11, Art. 12 (preceding Sec. 584); Damages for defective water main, etc., causing flooding of premises: *Rice vs. St. Louis*, 165 Mo. 636.

Regulation of wharves: See authorities cited in Rev. Code, Sec. 345; see also Charter, Art. III, Sec. 26, Clause 4 and references there made; see also *Belcher Sug. R. Co. vs. St. L. G. El. Co.*, 82 Mo. 121; s. c. 101 Mo. 192.

Metropolitan police: A police law emanating from the State excludes the power of the city to provide for the same subject by charter, and the charter provision will be ineffective: *State ex rel. vs. Stobie*, 92 South, W. 191; s. c. 194 Mo. 14; *State ex rel. vs. Police Commissioners*, 184 Mo. 109; *State ex rel. vs. Mason*, 153 Mo. 23, and cases cited.

See as to the Metropolitan Police law now in force in St. Louis compilation of "Laws Relating Specially to St. Louis," ante pages 174-181, Chap. 24, Secs. 427-459, and the notes thereto.

Third—Municipal buildings, market places—authority to improve or sell parks, etc.—To erect, purchase or rent a city hall, work houses, houses of correction, poor houses, insane asylums, engine houses, and all other necessary municipal buildings; to establish market places and meat shops, and license, regulate, sell, lease, abolish, or otherwise dispose of the same; and to inclose, improve, regulate or sell all parks and other public grounds belonging to the city.

City Hall: See ordinance and note thereto in R. C., Sec. 1.

Work-house: See notes and cases cited under ordinances relating thereto in Rev. Code, Secs. 1742-1784 inclusive (Chap. 21, Art. 4).

Houses of Correction: See as to House of Refuge, now "St. Louis Industrial School" note and references therein appended to Rev. C., Art. V, Ch. 21 (Sec. 1786).

Poor House: See R. C., Sec. 771 *et seq.* and notes.

Insane Asylum: See R. C., Secs. 747 *et seq.* and notes thereto; also Scheme, Sec. 10; Chart. XII, Sec. 4.

Engine Houses: See Ordinances on Fire Department, R. C., Chap. 6, Secs. 285 *et seq.* See Charter, Art. XI, Secs. 1-5, and on Fire Telegraph Dep. see R. C., Chap. 7, Secs. 306-319.

Market places: See comments and cases appended to ordinances on the subject: R. C., Chap. 16 (Secs. 1415 to 1486 inclusive) especially to heading of Art. 1 of Chapter 16 (preceding Sec. 1415).

Meat Shops: See ordinances and notes R. C., Chap. 16, Art. 6, Secs. 1473 to 1480.

Parks: See notes and references to ordinances and cases in Charter, Art. VIII. See also R. C. note to heading Chapt. 25, "Public Parks," Sec. 1218 *et seq.*

Fourth—To improve harbor, regulate ferries, create port wardens, regulate mooring of vessels, lease portions of wharf, etc.—To construct all needful improvements in the harbor; to control, guide or deflect the currents of the river; to erect, repair and regulate public wharves and docks; to regulate marine railways; to regulate and license all ferries and towboats, towing boats or other water craft, into, or out of, or within the harbor; to sell ferry privileges within the city limits, and to establish ferry rates; create the office of port wardens, and define their duties; to regulate the stationing, anchoring and mooring of vessels and wharfboats within the city; to charge and collect wharfage and tonnage dues, levee rates, and wharfage on firewood, lumber, timber, logs, shingles, staves, posts, laths, and other articles brought to the port of St. Louis; to set aside, or lease, portions of the unpaved wharf for special purposes, such as the erection of sheds, elevators and warehouses, and for railroad tracks, for quay-places, for the landing of lumber for mills, for cotton presses, for manufactories, and for any purpose tending to facilitate the trade of the city,—but no permit to use any portion of the wharf, or any lease of the same, shall be granted for a term exceeding fifty years.

For harbor and wharf regulations, boundaries, offenses, etc., see ordinances and the comments and cases cited in notes appended thereto, found in Rev. Code, Secs. 345 to 372 of Chap. X, Art. 1.

For wharfage rates, leases, etc., see notes and comments to R. C., Secs. 373-382 of Ch. X, Art. 2; and note to Sec. 379 thereof treats of leasing unimproved portions of the wharf, etc., by the city; and note to Rev. Code, Chap. X, heading of Art. 2, treats of right to collect wharfage.

For wharfboat regulations, license, etc., see ordinances R. C., Ch. X, Art. 3, Secs. 384-392.

For ordinances on wood, see *ib.* Art. 4, Secs. 393-404, also 375.

Scavenger dumps, see *ib.* Art. 5, Secs. 405-412.

For ferry regulations, license, etc., and power of city over ferries, see comments and cases in notes to ordinances on ferries in R. C., Ch. X, Art. 6, Secs. 413-436, particularly Sec. 413 thereof.

For provisions relating to Harbor and Wharf Commissioner see Charter, Art. IV, Sec. 38, and Art. IX in general; also ordinances Rev. Code, Sec. 1964-1969, 1999; employes: Secs. 1965, 2012-2014, 411.

Fifth—To license, tax and regulate various kinds of business, etc.—fix rates for carriages, drayage, etc.—regulate width of tires—to suppress certain occupations and amusements.—To license, tax and regulate lawyers, doctors, doctresses, undertakers, dentists, auctioneers, grocers, merchants, retailers, hotels, boarding houses, tenement houses, office buildings, public buildings, public halls, public grounds, concerts, photograph-

ists, artists, agents, porters, runners, drummers, public lecturers, public meetings and shows, real estate agents and brokers, financial agents and brokers, horse and cattle dealers, patent-right dealers, inspectors and gaugers, stock yard proprietors, examiners of titles, conveyancers, mercantile agents, insurance companies and insurance agents, bankers, banking or other corporations or institutions, telegraph companies or corporations, street railroad cars, livery and sale stables, hackney carriages, private carriages, barouches, buggies, wagons, omnibuses, carts, drays and other vehicles, and all other business, trades, avocations or professions whatever; to fix the rates for carriage of persons, and of wagonage, drayage and cartage of property, and regulate the width of the tires of all vehicles for heavy transportation; to license, regulate, tax or suppress ordinaries, hawkers, peddlers, brokers, pawnbrokers, money changers, intelligence offices, public masquerade balls, street exhibitions, dance houses, fortune tellers, pistol galleries, lottery ticket dealers, corn doctors, lock, private and venereal hospitals, museums and menageries, equestrian performances, horoscopic views, lung testers, muscle developers, magnifying glasses, billiard tables or any other tables or instruments used for amusement, circuses, operatic, theatrical and other exhibitions, shows and amusements; saloons, beer houses, tippling houses, dram shops, and gift enterprises; and to suppress prize fights, coon fighting, dog fights, chicken cock fights, gaming or gambling houses; and to suppress bawdy and disorderly houses, houses of ill-fame and of assignation; to provide for and enforce the registration of all births, marriages or deaths; to license, tax, regulate or suppress all occupations, professions and trades not hereinbefore enumerated, of whatever name and character.

The city is specially authorized by the constitution (Art. IX, Sec. 21) to provide in its charter for the levy of taxes for the maintenance of the city government, upon such subjects and in such manner as is not inconsistent with the Constitution and laws of the State, and is not included in the cities deriving their authority to levy taxes from legislative grant mentioned in Art. X, Sec. 1: *St. Louis vs. Bircher*, 76 Mo. 431; *St. Louis vs. Sternberg*, 69 Mo. 289, 298. See on taxation and assessment in general, note to Charter, Art. V, Sec. 1. The constitutional provisions in respect to taxation do not apply to license taxes: *St. Louis vs. Green*, 7 Mo. App. 468; s. c. 70 Mo. 562.

So long as there is no inequality, discrimination or favoritism, and the ordinance applies alike to all members of a class it is not objectionable as not being uniform in its operation: *St. Louis vs. Bowler*, 94 Mo. l. c. 634 and cases cited; *Aurora vs. McGannon*, 138 Mo. l. c. 48 and authorities cited; *St. Louis vs. Sternberg*, 69 Mo. l. c. 301.

A license cannot be imposed of a certain amount for one part of the city and a different amount for persons in the same class, for another part: *St. Louis vs. Spiegel*, 75 Mo. 145; *St. Louis vs. Spiegel*, 90 Mo. 587.

The courts will presume the ordinance to be valid and reasonable unless the contrary is clearly shown: *St. Louis vs. Weber*, 44 Mo. 547; and see cases on invalidity of ordinances on the ground of unreasonableness referred to in note to Chart., Art. III, Sec. 26 (heading).

The city may determine in what manner the tax is fixed and what the amount shall be, and acts in this legislatively and the courts, where authority to the city is specifically given, cannot review the same: *Green vs. St. Louis*, 7 Mo. App. 468; (s. c. affirmed 70 Mo. 562); *St. Louis vs. Weitzel*, 130 Mo. 600, l. c. 620.

The method of tax is for the city to determine: *Aurora vs. McGannon*, 138 Mo. l. c. 46, and cases cited; *St. Louis vs. Weitzel* supra.

Where the legal requirements have been complied with by one applying for a license, its issuance by the proper officer may be compelled by mandamus: *St. Louis vs. Weitzel*, 130 Mo. 600.

A contract by the city to exempt a particular corporation from a license tax is void: *Springfield vs. Smith*, 138 Mo. l. c. 655, being within the principle decided in *State vs. Railroad*, 75 Mo. 208.

The city has power to enforce by prosecution a penalty for violating license tax provision: *St. Louis vs. Green*, 70 Mo. 562; *St. Louis vs. Weitzel*, 130 Mo. 600; *St. Louis vs. Sternberg*, 69 Mo. 289, 302. See as to enforcement of ordinances in the police courts, note to Sec. 1265 of R. C.

It is perfectly competent for the city as the delegated agent of the State to collect an ad valorem tax on property used in a calling and also impose a license tax on the pursuit of that calling: *Aurora vs. McGannon*, 138 Mo. 38; *St. Louis vs. Green*, 70 Mo. 562; s. c. 7 Mo. App. 468; *St. Joseph vs. Ernst*, 95 Mo. l. c. 367; *St. Louis vs. Weitzel*, 130 Mo. l. c. 619.

But the city cannot impose a tax unless authorized by charter: *Kansas City vs. Grush*, 151 Mo. 128, 131; *St. Louis vs. Laughlin*, 49 Mo. 559; *St. Louis vs. Kaime*, 180 Mo. 309.

License Collector, see R. C., Chap. 30.

"And all other business, trades, avocations or professions whatever," includes those *ejusdem generis* and hence covers architects: *St. Louis vs. Herthel*, 88 Mo. 128; telephone companies, as *ejusdem generis* with telegraph companies: *St. Louis vs. Bell Telephone*, 96 Mo. 623, 629; Sewing Machine Agents: *St. Louis vs. Bowler*, 94 Mo. 630.

See as to vocations licensed and taxed hereunder R. C., Sec. 2270.

Lawyers and Doctors cannot be licensed, by reason of statute, R. S. 1899, Sec. 5260. Cases prior thereto: *St. Louis vs. Sternberg*, 69 Mo. 289; *St. Louis vs. Laughlin*, 49 Mo. 559.

Architects: *St. Louis vs. Herthel*, 88 Mo. 128.

Sewing Machine Agents: *St. Louis vs. Bowler*, 94 Mo. 630.

Auctioneers: See R. C., Chap. 31, Art. 1, Secs. 2126-2136.

Bankers, Brokers and Insurance Companies: R. C., Ch. 31, Art. 2, Secs. 2137-2144 and notes.

Foreign Insurance Companies: R. C., Sec. 2280.

Commission Merchants and Merchandise Brokers: See ordinances R. C., Secs. 2145-2149.

Dramshops: See notes to Rev. Code, Chap. 31, Art. 4, heading, and also notes to Secs. 2150-2165. This subject is now governed by State statutes: see same set out in "Laws Specially Applicable to St. Louis," p. 122, Chap. 8, Sec. 229, and following, and notes thereto appended. See as to keeping saloons open on Sunday under old charter: *State vs. Binder*, 38 Mo. 451.

Electric Batteries: Ordinances R. C., Secs. 2166 to 2168.

Fortune Tellers and Astrologists: See ordinances in R. C., Secs. 2169-2172.

Merchants' License Tax: For ordinance provisions see Rev. Code, Chap. 31, Art. 11, Secs. 2196-2205 and notes.

As to who is a merchant and where a sale is said to take place, and when power to require license exists, see in general: *Canton vs. McDaniel*, 188 Mo. 207, and cases cited; *Kansas City vs. Grush*, 151 Mo. 128.

Uniformity of tax: *Aurora vs. McGannon*, 138 Mo. 38.

Manufacturers: Ordinances R. C., Secs. 2179-2183 and note.

Hawkers and Peddlers: For ordinances see Rev. Code, Chap. 31, Art. 14, Sec. 2219-2230 and see comments and references to cases there cited; see also *St. Louis vs. Meyer*, 185 Mo. 583.

House and Real Estate Agents and Brokers. For ordinances see Rev. Code, Chap. 31, Art. 8, Secs. 2176-2178, and cases and comments in the notes thereto.

Hotels and Boarding Houses: See notes and ordinances R. C., Secs. 2173-2175. (Hotel runners see below.)

Intelligence Offices: Ordinances R. C., Secs. 2179-2183.

Ordinaries or Restaurants: Ordinances R. C., Secs. 2206-2208.

Pawnbrokers: See ordinances R. C., Secs. 2209-2218 and note to heading of that article (Art. 13 of Ch. 31).

Railroad Ticket Brokers: See ordinances, Secs. 2231-2235.

Steamboat, Railroad and Hotel Runners: See ordinances R. C., Secs. 2236-2246.

Horse and Cattle Dealers, Stockyards Sales Stables, etc.: See ordinances and notes, R. C., Secs. 2247-2256.

Street Railway Cars and Companies: See full note and comments, and references, to heading of Art. 18 of Ch. 31 of Rev. Code, and of the ordinances in connection therewith, viz.: Secs. 2257-2264; also Secs. 1863-1903.

Steam Railways: R. C., Sec. 1852 and note to heading of that Art.

Vault Cleaners: Ordinances R. C., Sec. 2265-2269.

Sundry vocations, engraver, lithographer, photogranist, mercantile agent (see note on merchants), **keeper of billiard table, pool table, pistol gallery, shooting gallery:** See ordinances thereon in R. C., Ch. 31, Art. 20, Sec. 2270.

Fruit Auctioneer: R. C., Sec. 2287.

Ferries: Ord. R. C., Secs. 413-416 and notes thereto.

Engineers: See Rev. Code, Sec. 2332.

Bawdy Houses: See note to R. C., Sec. 1518.

Livery Stable: See ord. R. C., Sec. 625 and note, 626 and Sec. 2256.

Ment Shops and Market Places: See R. C., Chap. 16 (Secs. 1415-1480).

Vehicles, Wagons, etc.: Ordinances and notes thereto: R. C., Secs. 1810 *et seq.*

Automobiles, Motorcycles, etc.: Ordinances R. C., Secs., 1811-1812.

Public Porters: R. C., Secs. 1805-1809.

Theatre, show, billposter, exhibition and amusements: R. C., Secs. 2270; also Sec. 1592-1597; as to theatres see also Secs. 195 *et seq.*, 210-211.

Junk shop, rag picking, roundabout, etc.: See R. C., Secs. 1519-1521.

City weighers: R. C., Sec. 2584.

Lumber measurers: R. C., Sec. 2591.

Sixth — To establish quarantine — regulate quarrying — slaughtering of animals and abate nuisances — summary powers of Mayor.—To establish and enforce quarantine laws and regulations; to prevent the introduction and spread of contagious diseases; to establish and regulate hospitals, and to secure the general health of the inhabitants by any measure necessary; to regulate stone quarries and quarrying of stone, and the slaughtering of animals; provide for the erection, management and regulation of slaughter houses; prevent the driving of stock through the city; prohibit the erection of soap factories, stock yards, and slaughter houses, pig pens, cow stables and dairies, coal oil and vitriol factories within prescribed limits, and to remove and regulate the same; and to regulate or prevent the carrying on of any business which may be dangerous or detrimental to the public health, or the manufacture or vending of articles obnoxious to the health of the inhabitants; and to declare, prevent and abate nuisances on public or private property and the causes thereof; and the Mayor, whenever in his opinion a nuisance exists, on public or private property, or whenever a nuisance has been so declared by ordinance or resolution of the Board of Health, is authorized to abate and remove such nuisance and the cause thereof in a summary manner, at the cost of the owner

or occupant of the premises where the nuisance, or the cause thereof may be, and for that purpose may enter upon and take possession of any premises or property where such nuisance may exist or be produced.

Quarantine and Infectious Diseases in charge of Health Commissioner: Charter, Art. 12, Sec. 4; power of mayor and commissioner *ib.* Sec. 8; superintendent, how appointed; Art. 12, Sec. 5. For ordinances and authorities on the subject of quarantine, see Rev. Code, Chap. 11, Art. 19, Secs. 818 to 826; and as to regulations for contagious diseases see R. C., Secs. 792-818; Restrictions by charter against treating patients sick with cholera, plague or smallpox, see Charter, Art. III, Sec. 35.

Hospitals: Right to purchase, see Charter I, Sec. 1; appointment of superintendents see Chart., Art. 12, Sec. 5; For ordinances on the city institutions see R. C., Chap. 11, Art. 16, Secs. 705-770 and notes.

Quarries: See notes appended to ordinances on the subject: R. C., Secs. 625, 626, 1563. Also note to heading "nuisances," in R. C., Ch. 11, Art. 12 (preceding Sec. 584). See also Charter provision, Art. III, Sec. 34.

Slaughter Houses: See ordinances with notes thereto, Rev. C., Secs. 625, 626, 600 to 602; note to nuisances, Rev. C., Ch. 11, Art. 12; see also Charter, Art. III, Sec. 34.

Stock Driving: R. C., Secs. 1574-1581 and note to Sec. 1578; see also Charter, Art. III, Sec. 26, Clause 9, and notes.

Factories, etc.: See Art. III, Sec. 34 and note.

Pig Pens, Cow Stables, Dairies, Factories, etc.: See ordinances under "nuisances," R. C., Chap. 11, Art. 12, and notes thereto and Secs. 584 and following. For dairies see also R. C., Secs. 513 *et seq.* and notes.

Soap Factories, Bone and Rendering, etc.: See in addition to above R. C., Secs. 604 *et seq.* and also Charter, Art. III, Sec. 34.

Where the power to prohibit is given the lesser power to permit on condition is included: *St. Louis vs. Fischer*, 167 Mo. 662, approving *St. Louis vs. Howard*, 119 Mo. 41; see *s. c. ib.* 37.

"Regulate or prevent the carrying on of any business which may be dangerous or detrimental to the public health:" *St. Louis vs. Lamp Mfg. Co.*, 139 Mo. loc. cit. 568; *St. Louis vs. Fischer*, 167 Mo. l. c. 662; (affirmed 194 U. S. 361).

"To secure the general health of the inhabitants by any measure necessary": See as to power to pass milk and cream inspection ordinances: *St. Louis vs. Liessing*, 190 Mo. 464, 480; to require owner to destroy weeds: *St. Louis vs. Galt*, 179 Mo. 8, 18. See also note to Charter to general welfare clause: Art. III, Sec. 26, Clause 14.

This, with other sections, does not operate to take from the Board Pub. Imp. and confer on the Board of Health the power to make contracts for disposal of garbage or for other public work: *State vs. Butler*, 178 Mo. l. c. 300.

"To declare, prevent and abate nuisances on public and private property, and the causes thereof," etc.: See note on subject of "nuisances" in connection with ordinance provisions in Rev. Code, Ch. XI, Art. 12, Secs. 584-689 and discussion of the subject and cases there cited. For further charter provision see Charter, Art. XII, Secs. 6, 4, 3. As to abatement of a nuisance caused by the city at the expense of the city see Art. VI, Sec. 19.

Seventh—To establish standard for weights and measures—inspection of lumber and various articles of food, manufacture, etc.—To regulate and establish the standard of weights and measures to be used in the City of St. Louis, and provide for the inspection of the same; to make provision for the inspection and measurement of lumber and other building material; for the inspection of steam boilers and all steam-heating apparatus, and to license engineers using steam boilers in said city; for the inspection of beef, pork, flour, meal, oil, coal oil, naphtha, benzine and other burning fluids, molasses, syrups, turpentine, vinegar, beer and ale, wines, whisky,

rum, brandy and other spirituous liquors in barrels, hogsheads and other vessels; for the inspection and weighing, or measuring hay or stone coal, charcoal, firewood, and all other kinds of fuel to be used in the City of St. Louis; for the inspection of butter, cheese, milk, lard and other provisions; for regulating the weight and quality of bread; the price and quality of gas; and for the inspection and vending of meat, poultry, fish and vegetables; to designate the place where such articles shall be sold; restrain and punish the forestalling of poultry, butter, eggs, vegetables and fruit, and regulate or suppress hucksters; *Provided*, That nothing in this article shall be construed as to authorize the inspection of any article enumerated in this act, which is to be shipped beyond the limits of the city, except at the request of the owner thereof; and, *provided further*, that the inspectors, under this subdivision shall be qualified by practical experience to discharge their respective duties.

Standard and Inspection of Weights and Measures: Further charter provision, Art. IV, Sec. 30. For discussion and cases see notes to ordinances on this subject R. C., Chapter 40, Secs. 2531 and following.

Lumber Inspection, etc.: See R. C., Secs. 2591-2599.

Steam Boilers Inspection, Licensing Engineers, etc.: See notes of cases to heading of Rev. C., Chap. 23, and ordinances 2323 to 2365.

Inspection of Meat, Fish, Vegetables, Fruit: See R. C., Ch. 11, Art. 7, Secs. 535 to 544; **forestalling and vending same or designating where same to be sold** see Markets, Meat Shops, etc. (R. C., Chap. 16, Secs. 1415-1485). Fruit and vegetables to be sold only in original packages at depots or landings, nor to anybody but licensed dealers: Rev. Code, Secs. 1483-1485.

Coal, Hay, etc.: See notes to R. C., Secs. 2564 et seq.

Gas Inspection: R. C., Secs. 334 to 344.

Hucksters: R. C., Sec. 1468.

Inspection of milk, cream, butter, cheese, etc.: For ordinance provisions see Rev. Code, Ch. 11, Art. 5, Secs. 484-512 and notes thereto. See as to upholding the ordinances based on above charter provision: *St. Louis vs. Liessing*, 190 Mo. 464; *St. Louis vs. Grafeman Dairy Co.*, 190 Mo. 492, 506; *Same vs. Same*, 190 Mo. 507; *St. Louis vs. Reuter*, 190 Mo. 514; *St. Louis vs. Polinsky*, 190 Mo. 516; *St. Louis vs. Schuler*, 190 Mo. 524.

Eighth—To regulate and provide for election or appointment of City officers, etc.—salaries and jurors' and witness' fees.—To regulate and provide for the election or appointment of city officers required by this Charter, or authorized by ordinance, and provide for their suspension or removal; and they shall establish the salaries of all officers and the compensation of all employes, excepting day laborers, and jurors and witnesses, respectively, for their services: *Provided*, That the salary of no officer shall be changed during the term for which he is elected or appointed, and that no officer receiving a salary shall receive any fees or other compensation for his services.

Election of officers is now regulated by the State law, as to which see same herein set out, with notes thereto, in "Laws Specially Applicable to St. Louis," p. 124, Chap. 9, Secs. 237-321. See also Chart., Art. IV.

For elective and appointed officers, appointment, suspension and removal thereof, the filling and existence of vacancies, etc., see provisions of Charter, Art. IV, with discussion and citation of cases in the notes thereto.

For salaries of officers and discussion of authorities thereon, see note to Charter, Art. XVI, Secs. 17 and 18.

The provision that "No officer receiving a salary shall receive any fees, or other compensation for his services," excludes deputy recorder of voters from compensation other than his salary for overtime: *Lemoine vs. St. Louis*, 120 Mo. 419.

It was held that a similar Kansas City provision did not apply to policemen, whose salary is fixed by the Police Board: *State ex rel. vs. Gifford*, 70 Mo. App. 522; but in St. Louis there is an ordinance on witness fees which excepts city officers and prosecutors from claiming such fees in police courts: *Rev. Code, Sec. 1297*; and the *Rev. Statutes 1899, Sec. 2840*, provide that no officer, appointee, or employee holding a state, county, township or municipal office, including police officers and policemen, is allowed any witness fee for testifying before a coroner, grand jury or in any criminal case. The provision that the "salary of no officer shall be changed during the term for which he is elected or appointed," is in accord with constitutional and statutory provisions to the same effect; and since (it is held) the period during which an incumbent holds over after the expiration of his regular term, "until his successor is appointed and qualified" is considered part of his term, he cannot be permitted to participate in an increase in salary (enacted during the regular term) during that period for which he holds over thereafter: *State ex rel. vs. Smith*, 87 Mo. 158. But such provisions do not apply to officials who hold at the pleasure of the appointing power, but only where there is a definite term of office: *State ex rel. vs. Johnson*, 123 Mo. 43, 49.

The right of the city to fix compensation of officers does not confer the right to reduce, take away or change the same: See *Carr vs. St. Louis*, 9 Mo. 190. Also see in connection herewith, note on "Salaries" to Sec. 17 of Art. XVI of Charter. A city officer is entitled to the compensation fixed by ordinance and no more: *Carroll vs. St. Louis*, 12 Mo. 444. See also *Chamberlain vs. Kansas City*, 125 Mo. 430. An ordinance requiring one employed by the city to pay notary's fees for business done in connection with city matters (but paid by third persons) during city hours, into the city treasury, his salary as employee to cover such services, is void and the fees so paid to the city may be recovered: *Wood vs. Kansas City*, 162 Mo. 312.

The object of the provision "to regulate and provide for the election or appointment of city officers," etc., is "quite plain; it bestows, as its language imports, sufficient power . . . to make all necessary rules or laws in regard to municipal elections, whether those elections be general or special, whether occurring before the expiration of any official term of office and therefore *anticipatory* in their nature or *after* some regular election has failed of its purpose," etc. . . . "The authority thus delegated is *plenary* . . . a power which recognizes only such limitations as are marked out by the constitution or laws of this state or some other provision of the charter," etc.: *State ex rel. vs. Thomas*, 102 Mo. 85, 89-90 (upholding a special election under ordinance now Sec. 1690 of *Rev. Code*). The section was cited but not discussed in *St. L. vs. Mnfg. Co.*, 139 Mo. 1. c. 568. See further on these subjects notes to Charter, Art. IV, Secs. 5-9, 12-13, etc.

As to lack of jurisdiction of the city officials in contest of Justice of the Peace and Constable elections see *State ex rel. vs. Lobsinger*, 7 Mo. App. 106; *State ex rel. vs. McGee*, 69 Mo. 504; *State ex rel. vs. Kramer*, 150 Mo. 89;

And as to mayoralty election: *State ex rel. vs. Dillon*, 87 Mo. 487. The municipal assembly is to determine in first instance who elected: *Rev. Code, Sec. 1491*; and contest is determined in circuit court: *State ex rel. vs. Hough*, 193 Mo. 615. See ordinance on jury fees: *R. C., Secs. 1335, 2412*; also jury law provided in state statutes: See *Rev. St. 1899, Secs. 6539-6570* (set out herein under "Laws Sp. Appl. to St. Louis," Secs. 140-172); *R. C., Sec. 1334*; *Scheme, Secs. 27, 28, 30, 31*; as to witness and jury fees in police courts see *R. C., Secs. 1297-1298*.

Ninth—To prevent riots—regulate or prohibit animals from running at large—obstructions on streets, etc.—To restrain and prevent any riot, rout, noise, disturbance, or disorderly assemblage, and amusements, dangerous to persons or property, in any street, house or place in the city, and regulate or prohibit the running at large of cattle, cows, hogs, goats, dogs and every other brute animal within the limits of the city; to prevent and remove all obstructions and encroachments upon the sidewalks, curbstones, carriageways, streets, avenues and alleys, at the expense of the owners of the ground fronting thereon, and to regulate and prohibit the building of vaults under sidewalks.

Restraint of animals running at large: See ordinances in *R. C., Secs. 1578-1581* and note of cases; see also statutes under *State Laws for St. Louis*, p. 79, *Secs. 4-11*; *Scheme, Sec. 35*.

Riots, disturbances, etc., ordinances: R. C., Sec. 1536 *et seq.* mayor's powers: R. C., Sec. 1503; Rev. St. 1899, Sec. 2139; power and duty of mayor, sheriff, etc., under statute: R. S. 1899, Sec. 2132; duty of sheriff, R. S. 1899, Sec. 10046.

Obstructions on streets and sidewalks, etc.: As to removal, etc., see R. C., Sec. 932 *et seq.*; sidewalks to be kept free from filth, snow and ice by the owners and agents, etc., see R. C., Sec. 1234, and cases in note appended thereto. As to what obstructions of streets are lawful and what are not see notes to Chart., Art. III, Sec. 26, Clause 2; also note in R. C. to Chap. 11, Art. 12 (under "nuisances") and Secs. 584 *et seq.*

Vaults under sidewalks: See Rev. Code, Secs. 919 *et seq.*

Tenth—To impose and collect fines, etc.—commitments to workhouse.—To impose, collect and enforce fines, forfeitures and penalties, for the breach of any city ordinance. Any offender who shall neglect, or refuse to pay any fine, penalty and costs that may have been imposed upon him or her, shall be committed to the workhouse, or, in case of women, in such other place as for them may be provided, until such fine, penalty and costs be fully paid: *Provided*, that no such imprisonment shall exceed six months for any one offense. Every person so committed to the workhouse, or such other place aforesaid, shall be required to work for the city, at such labor as his or her health and strength will permit, within or without said workhouse or other place, not exceeding ten hours each working day; and for such work the person so employed shall be allowed, exclusive of his or her board, fifty cents per day for each day's work, on account of said fine and costs:

For ordinances on **fines, penalties and forfeitures** see Rev. Code, Chap. 18, Art. 8, Secs. 1650-1653 and in connection therewith the subjects below referred to; also see Charter, Art. III, Sec. 26, Clause 14.

Proceedings in police courts for violation of ordinances: See note, discussing this subject in full, to Rev. Code, Chap. 13, Art. 1, Sec. 1265, together with references to charter and ordinance provisions, with general discussion and citation of authorities; also note to Sec. 1279.

For Court Criminal Correction, and authorities relating thereto, see "Laws Specially Applicable to St. Louis," ante p. 97-103, Ch. 5, Art. 4, Secs. 102-139.

For **Workhouse** ordinances and discussion see Rev. Code, Chap. 21, Art. V, notes, and sections R. C., 1742-1784 and also note to Sec. 1265.

For **House of Refuge**, now **St. Louis Industrial School**, see "Laws Specially Applicable to St. Louis," ante p. 162-164, Sec. 355-367 and notes; also ordinance R. C., Chap. 21, Art. 5, Sec. 1785.

Eleventh—To protect rights of city in corporations—grant, regulate and repeal railway franchises—free passes on street railways prohibited.—To take all needful steps in and out of the State, to protect the rights of the city, in any corporation in which the city may have acquired an interest; to have sole power and authority to grant to persons or corporations, the right to construct railways in the city, subject to the right to amend, alter or repeal any such grant in whole or in part, and to regulate and control the same, as to their fares, hours and frequency of trips, and the repair of their tracks, and the kind of their rails and vehicles; but every right so granted shall cease, unless the work of construction shall be begun within one year from the granting of the right, and be continued to completion with all reasonable practical speed, and it shall be cause of forfeiture of the rights and privileges derived from the city, of any railroad company operating its road only within this city, which shall allow any

person to ride or travel on its road gratuitously or for less than usual price or fare, unless such person be an officer or employe of such company.

Section cited: State ex inf. vs. Lindell Ry., 151 Mo. 1. c. 181.

As to the effect of the reservation by the city in the conferring of franchises of the "right to alter, amend or repeal" the provisions thereof, see *San Antonio Traction Co. vs. Altgelt*, 200 U. S. 304 (subsequent legislation affecting fares allowed); *Detroit vs. Ry.*, 184 U. S. 368 (same not allowed, having been expressly contracted for and no effective reservation made); *Railway vs. Philadelphia*, 101 U. S. 528 (allowing increase in license on cars); *Bank vs. Owensboro*, 173 U. S. 636 ("the reserved power deprives the contract of its irrevocable character and submits it to legislative control," p. 644); *Sioux City Street Ry. vs. Sioux City*, 138 Mo. 98 (allowing imposition of additional expenses on company for paving street).

For ordinances regulating the hours and frequency of trips, see R. C., Sec. 1867, with note thereto. For repair of tracks, character of rails, speed limit, surrender of franchise, and numerous police regulations, see Rev. Code, Ch. 23, Art. 6, Sections 1863 to 1903 inclusive, with notes thereto; also Charter, Art. X, and notes.

Power to "license, tax and regulate" street-cars is conferred by Charter, Art. III, Sec. 26, Clause 5, and on this point see ordinance R. C., Sec. 2257, with discussion and citation of cases in note thereto. But in general the powers of the city on the subject of street railways, granting of franchises, effect thereof, forfeiture, etc., are set out in Art. X of the Charter, which, together with the notes thereto, should be read in connection herewith in determining the effect of this section as to street railways.

For regulations concerning steam railroads, see Rev. Code, Chap. 23, Art. 5, Sections 1852 to 1863, with notes thereto.

Twelfth—To examine premises—regulate storage of gun-powder, etc.—prohibit wooden buildings, and enforce precautions against fire—inspection of buildings, etc.—The Assembly through its officers or agents, may at all reasonable times, enter into and examine all dwellings, lots, yards, enclosures and buildings of every description, to ascertain their condition for health, cleanliness and safety; take down and remove buildings, walls, or superstructures that are or may become dangerous, or require owners to remove or put them in a safe and secure condition, at their own expense; regulate the storage of gun-powder, giant powder, dynamite, nitroglycerine, and other explosive compounds and of all combustible and inflammable materials, the use of lights and candles in stables, shops and other places; remove, or prevent, the construction of any fire-places, chimneys, stove, oven, boiler, kettle or any apparatus used in any house, building, manufactory or business, which is liable to cause fires, or conflagrations; direct the safe deposit of ashes, or other dangerous rubbish or material, and order and regulate the building of partition, parapet and fire walls, partition fences, smoke flues, hot-air flues, smoke stacks, and the erection and cleaning of chimneys; shall provide for the safe construction, inspection and repairs of all private or public buildings within the city; regulate, restrain or prohibit the erection of wooden buildings within the prescribed limits and remove the same at the owner's expense when erected or suffered to remain contrary to law or ordinance; compel persons to aid in extinguishing fires, or in the preservation of property liable to be destroyed or stolen, and compel owners of buildings to have scuttles on their roofs and stairs or ladders leading thereto.

All the provisions of this clause have had ordinances enacted in pursuance thereof. Most of these ordinance provisions will be found under what is known as the Building Code, comprising Rev. Code, Secs. 27 to 234 inclusive, containing many and minute provisions and regulations. As to ordinances on gun-powder, etc., see R. C., Secs. 19-26; fire-crackers and fireworks, Secs. 228-229; lamps in stables, *ib.* Sec. 225. For fire limits for wooden buildings see Charter, Art. XI,

Sec. 4; also R. C., Sec. 68 (and note to Sec. 66 as to authority of city to remove buildings erected in violation thereof).

Right to enter and examine premises, etc., to ascertain sanitary conditions: See as to right of Health Commissioner in this respect, Charter, Art. XI, Sec. 3; and as such right in the members of Board of Appeals from Building Commissioner's rulings, see Rev. Ord., Sec. 60; as to right of the Mayor to enter to abate nuisances, see Charter, Art. III, Sec. 26, Clause 6; right of Sewer Commissioner to enter premises, Rev. Code, Sec. 2315. And see in general under "Right of Entry," etc., in the Index to Rev. Code, for references.

Power to require owners to remove or put in safe condition does not authorize an ordinance requiring the *agents* of owners to do so: St. Louis vs. Kaime, 180 Mo. 309 (the ordinance has since been amended in this respect: See R. C., Sec. 216).

Power to provide for safe construction, inspection and repairs does not confer power on the city to change the common law rule as to lateral support between adjacent owners in case of excavations: Carpenter vs. Reliance Realty Co., 103 Mo. App. 480, 494 (ord. R. C., Secs. 72-73).

Thirteenth—To provide for insane persons and paupers—assessments, etc., of State revenue.—To provide for the support and maintenance and confinement of insane persons; and to make suitable provisions for the maintenance and support of poor persons; to exercise the same powers and perform the same duties in regard to the assessment and collection of the State revenue, within the City of St. Louis, as is now by law vested in the County Court of St. Louis County, in such manner as provided by ordinance.

Ordinances as to insane asylum and confinement and care of the insane: Rev. C., Chap. 11, Art. 16, Secs. 747-770 and notes; see also Charter, Art. XII, Sec. 4. As to poor persons and Poor House see Rev. C., Chap. 11, Art. 17, Secs. 771, 791, and notations.

Fourteenth—General welfare clause—general authority to pass and enforce ordinances—census of inhabitants.—Finally, to pass all such ordinances, not inconsistent with the provisions of this Charter, or the laws of the State, as may be expedient, in maintaining the peace, good government, health and welfare of the city, its trade, commerce and manufactures, and to enforce the same by fines and penalties, not exceeding five hundred dollars, and by forfeitures not exceeding one thousand dollars; to purchase, rent, or lease, within the limits of the city or elsewhere, any real or personal property, and to control, manage, sell or lease, or otherwise dispose of the same, for such purposes and considerations as they may deem proper for the public welfare of the city, and to provide for the enumeration of the inhabitants of the city.

Power to purchase, rent, lease, control, dispose of, etc., property within and without the city limits, etc.: See discussion in note to Charter, Art. I, Sec. 1, and citation of cases.

As to formalities and execution of city contracts, deeds, ratifications, estoppel, etc., see note to Chart., Art. XVI, Sec. 7 and cases.

Enforcing ordinances by fines and penalties, etc: See references to ordinances, charter and state provisions in note to Charter, Art. III, Sec. 26, Clause 10. See also discussion in notes to R. C., Secs. 1265, 1650.

General welfare clause: The powers broadly conferred under this clause may be limited and qualified by special and particular powers expressly conferred, the general clause not enlarging nor annulling those specifically conferred by the special clauses undertaking to confer powers over that subject: St. Louis vs. Kaime, 180 Mo. 309, 317 (denying power to compel agent to remove unsafe building); State vs. Butler, 178 Mo. 272, 302; St. Louis vs. Bell Telephone, 96 Mo. 623, 631 (denying power to fix telephone rates).

Inspection of milk under general welfare clause: *St. Louis vs. Liessing*, 190 Mo. 464, 480.

Temporary closing of street: *Haller vs. St. Louis*, 176 Mo. 606, 620.

Vagrancy: *St. Louis vs. Benty*, 11 Mo. 61.

Prohibiting keeping open place of business on Sunday: *St. Louis vs. Cafferata*, 24 Mo. 94.

Prohibiting cruelty to dumb animals: *St. Louis vs. Schoenbusch*, 95 Mo. 618 (in which the court says that "the cases show that general welfare clauses are not useless appendages to the charter powers of municipal corporations. They are designed to confer other powers than those specifically named. The difficulty in making specific enumeration of all such powers as may be properly delegated to municipal corporations renders it necessary to confer such powers in general terms. Ordinances relating to the comfort, health, good order, convenience and general welfare of the inhabitants are regarded as the exercise of police regulations").

Dramshops in Parks: *State ex rel. vs. Schweickardt*, 109 Mo. 496.

Abolish Wells in Streets: *Ferrenbach vs. Turner*, 86 Mo. 416.

Regulate Steam Boilers and require licensed engineer, etc.: *St. Louis vs. Lamp Co.*, 139 Mo. 568.

Removal by Mayor of appointed officer as penalty for misconduct is within general welfare clause: *State ex rel. vs. Walbridge*, 119 Mo. 383, 393.

Prohibit disturbance of the peace, drunkenness, gambling, further public safety, prohibit carrying concealed weapons, noises, immorality, and numerous other miscellaneous offenses, etc. See ordinances and notes thereto in *Rev. Code*, Chapter 18.

See further authorities under the particular subjects involved.

Sec. 27. Fires to be guarded against.—The Assembly shall, without unnecessary delay, enact stringent and efficient laws for securing the safety of persons from fire in halls and buildings let or used for public assemblies, and for entertainments or amusements.

See ordinance precautions against fire in numerous sections of the *Building Code* (R. C. secs. 27 to 234 inclusive.)

Sec. 28. Numbering, printing and repeal of ordinances.—Every ordinance when passed and approved by the Mayor, or when it shall have become a law, shall be sent to the City Register, and by him shall be numbered, printed, filed, and preserved in his office, according to ordinance; and no special or general ordinance, which is in conflict or inconsistent with general ordinances of prior date, shall be valid or effectual until such prior ordinance, or the conflicting parts thereof, are repealed by express terms.

For ordinance provisions on numbering, printing and repeal of ordinances, see *Rev. Code* secs. 1401-1405, and as to the effect of repealing a repealed ordinance, R. C. secs. 1411, 1401; and the effect of a repeal on tenure of office, R. C. sec. 1412. In how far repeals affect rights in pending matters, etc., R. C. secs. 1403, 1405, 1406, and see notes to some of above sections.

Repeal: See similar provision in ord. R. C. sec. 1404.

Under this provision of the charter it is held that where there is a special ordinance enacted on the same subject as a general ordinance, so that if standing alone the latter would include the same matter and conflict with the special act, the special and particular must be taken as intended to create an exception to the general, and not as a repeal thereof by implication: *Ruschenberg vs. Railroad*, 161 Mo. 70, 82; *Campbell vs. Ry.*, 175 Mo. 161, 176-177. See also other authorities to this effect cited in note to heading of Art. III, sec. 26 (under paragraph "Construction of Charter and ordinance provisions.")

Where the supposed sections are not materially variant the charter provision does not apply, and at all events the last section is invalid only to the extent of the conflict, and to that extent only leaves the original ordinance in force: *St. Louis vs. Weitzel*, 130 Mo. l. c. 617.

A contention that an ordinance is void because in conflict with a former general ordinance not expressly repealed, under this section, is futile where such former ordinance is not offered in evidence or referred to in the trial: *St. Louis vs. Liesing*, 190 Mo. l. c. 490.

This section does not apply where both ordinances are special; a special ordinance may be repealed by implication by a subsequent special ordinance in conflict with it: *Schumacher vs. St. Louis*, 3 Mo. App. 297.

But where a provision is of a general nature, no subsequent special or general ordinance which does not repeal the former in express terms will operate to affect it, and the first ordinance remains unrepealed: *Lamoine vs. St. Louis*, 72 Mo. 404, l. c. 406. Hence a general ordinance imposing a license of \$100 not in express terms repealing a prior general ordinance imposing a license of \$50 for the same purpose is invalid, and remains so until the first is expressly repealed: *St. Louis vs. Sanguinet*, 49 Mo. 581.

It is manifest that since the General Assembly's enactments are paramount to those of the Municipal Assembly, any ordinance in conflict with a prior or subsequent statute is to that extent simply void, independently of any question of express or implied repeal: See authorities and discussion in general note introductory to Art. III, sec. 26. These charter and ordinance provisions as to repeals do not, of course, apply to statutes.

As to repeal of an ordinance or part thereof not reviving a former ordinance repealed see R. C. sec. 1401. In *State vs. De Bar*, 58 Mo. 395, it was held that where a charter provision operated to exclude a state provision on the same subject, within the city, a repeal of the charter provision did not revive the statutory provision as to the city: see also *State vs. Lewis*, 5 Mo. App. 465. Where a charter provision is enacted which renders certain parts of an ordinance theretofore passed in conflict with the new provision, the ordinance will be superseded only to the extent of the conflict, if that does not impair the remainder: *Quinette vs. St. Louis*, 76 Mo. 402. As to partial validity of ordinances see note to Charter, Art. III, sec. 12, and cases there cited.

Sec. 29. Revision of general ordinances.—There shall be a revision of the general ordinances of the city once in every five years, to be provided for by ordinance.

Effect of Revision.

The revision of the ordinances does not have the effect of breaking the continuity of those provisions in force prior to the revision and carried into it, but only to continue their existence: *St. Louis vs. Foster*, 52 Mo. 513, 516; *St. Louis vs. Alexander*, 23 Mo. 483, 509.

The provision of the Charter (now Art. XV, sec. 2) that every ordinance passed shall be published in the papers doing the city printing within five days after its approval, does not apply to a revising ordinance: *St. Louis vs. Foster*, 52 Mo. 513, l. c. 516.

That the official revision purporting to contain the ordinances is admissible in evidence without more, to prove the ordinance provisions therein contained, see authorities and reference found in note to Charter, Art. III, sec. 12.

And by Rev. Code, sec. 1414, it is provided that a reference to this "Revised Code of St. Louis" by section number is a sufficient designation of any ordinance therein contained to which reference is desired.

But it is to be observed that even in case of the revision of the State statutes it may be shown that a provision has been illegally carried into the official volumes, and the court may inform itself concerning the existence of a statute which is challenged by examining the original rolls in the office of the Secretary of State: *Bowen vs. Ry.*, 118 Mo. 541.

Special and General Ordinances.

These are thus distinguished by Mr. McQuillin (see Mun. Code, p. 224; also McQ. unofficial work "Amend. Chart." p. 230): All ordinances of a general nature hav-

ing an obligatory force on the community and upon the administration of the municipal government are denominated general. Those granting franchises, special privileges, as the making of excavations, etc., to persons or corporations, providing for public work or improvement, to establish sewer districts, the construction of sewers, streets and sidewalks, to fix the grade of streets, to authorize the city to borrow money, to authorize officials to do certain things, as the leasing of property, laying of water distribution pipes, etc., are usually special."

Function of Revision.

A general revision of the ordinances, such as is provided for by this section of the charter, is in form but a single ordinance, adopted by the assembly as any other ordinance. The present Revised Code, (which covers only general ordinances) is ordinance 22902, approved March 19, 1907. It is believed that the charter provision that no ordinance shall contain more than one subject "which shall be clearly expressed in the title" applies to a revising ordinance; the provision for notifying the public of ordinances passed, within five days thereafter, by publication, does not apply (St. Louis vs. Foster, *supra*); and for these technical reasons, (and others more potent which suggest themselves when we consider the practical situation, requiring a comparatively hasty examination and adoption by the municipal assembly of a reviser's voluminous work, which would make it almost impossible to notice the changes) it is believed that it was not intended that new ordinances, not enacted in the usual manner, should be included in a revision for the first time as a part thereof, nor that any of the existing live ordinances should be repealed by simple omission from the revision, although the ordinance providing for the revision enacts that "all ordinances in conflict therewith shall be repealed." The principal object of a revision is to put the existing ordinances in accessible form; chiefly by eliminating those repealed, inserting new ordinances enacted since the former revisions or improperly omitted therefrom, indexing same, inserting head-lines, etc., and other matters of form. The revision of the revised statutes of the State is not based upon the same procedure and the function of the revision thereof every ten years furnishes no safe guide to the effect of a revision of the ordinances. Changes in substance involve legislative discretion and deliberation in the Municipal Assembly, which cannot be accorded by it to each of the voluminous general ordinances submitted in bulk by a reviser. Hence in this and the preceding revision numerous changes were suggested to the Municipal Assembly for adoption, in a preliminary report by the reviser, many of which were adopted in time to be noticed herein, others of which were not adopted. The ordinance authorizing the present revision is ord. No. 22046, which requires in addition to the ordinance revision a collation of state laws specially applicable to the City of St. Louis, and annotation thereof as well as of the charter and ordinances.

General Revisions of St. Louis Ordinances.

The revisions of the ordinances of St. Louis prior to the Scheme and Charter were as follows: By Wilson Primm in 1835-6; A. B. Chambers in 1843; Chas. D. Drake in 1846; Jno. M. Krum in 1850; S. V. Papin, city register, in 1853; Thos. C. Chester in 1856; Chas. H. Tillson in 1861; J. Gabriel Woerner in 1866; E. W. Pattison in 1871. After the present Charter by M. J. Sullivan in 1881 (ord. 11668); by same in 1887 (ord. 14000); by Chester H. Krum (ord. 17188); by Eugene McQuillin in 1900 (ord. 19991, officially designated "Municipal Code of St. Louis"); and the present revision, in 1906, (being ordinance No. 22902, approved March 19, 1907, officially designated the "Revised Code of St. Louis").

Sec. 30. Remission of taxes—donations—exemption from burdens, and compromise of claims, forbidden.—The Assembly shall not have power to relieve any citizen from the payment of any lawful tax, or to exempt him from any burden imposed upon him by law, or ordain the payment of any demand not authorized and audited according to law, nor shall the Assembly have power to ordain or authorize the compromise of any disputed demand, or any allowance therefor or therein, except as provided in the contract therefor, or the payment of any damages claimed for alleged injuries to person or property, except by ordinance and adopted by a vote of two-thirds of the members of each house taken by yeas and nays.

Power of Comptroller to correct manifest errors in tax assessments: see Charter, Art. V, sec. 28. Charter provision prohibiting appropriations for charitable purposes: Art. III, sec. 33.

The exception in sec. 30, Art. III, requiring a two-thirds vote, added at the end of the section, applies to the whole section and not only the last clause thereof: *State ex rel. vs. St. Louis*, 174 Mo. 125, 135 *et seq.* giving a history of the section. Hence it is held that the city is not prohibited from reimbursing a police officer who, when ordered to shoot a mad bull in the streets, wounded a boy, resulting in the officer's being compelled to pay damages therefor: *State ex rel. vs. St. Louis*, 174 Mo. 125.

The city is not prevented from purchasing water pipe layed by private citizens and making it a part of the city system, by a proper ordinance, although it is styled as a relief ordinance: *State ex rel. vs. St. Louis*, 169 Mo. 31, 37.

But an ordinance making a donation of public money to a private institution or to an individual, is void as beyond the power of the Municipal Assembly: *Hitchings vs. St. Louis*, 49 Mo. 484; *Campbell vs. St. Louis*, 71 Mo. 106, 109, 111. See also *Knapp vs. Kansas City*, 48 Mo. App. 485, and citation of authorities.

Sec. 31. Power to compel attendance of witnesses.—The Assembly or either house, shall have power to compel the attendance of witnesses, and the production of papers relating to any subject under consideration, and in which the interests of the city are involved, and shall have power to call upon any proper officer of the City of St. Louis to execute such process. The President of the Council and Speaker of the House, and the chairman of any committee of either house, shall have authority to administer oaths to witnesses.

See ordinance provisions Rev. Code, sec. 1392-1395. See discussion in *In re Conrades*, 185 Mo. 411, in which, however, it was held that the above charter provision was not applicable to compel attendance and submission of books and papers, where a committee of the House of Delegates is only authorized to "carefully and fully investigate the books, records and accounts in the several departments wherein returns are made of taxes. . . . and to subpoena witnesses and to send for persons and papers and to administer oaths;" and the court released by habeas corpus one who was sought to be punished for contempt in refusing to obey such committee's orders to produce books and papers.

The court in this case reversed the majority of the court of appeals in the same case (112 Mo. App. 21) which had held *Conrades* for contempt; see full discussion of authorities in the majority and dissenting opinions. In the case of *In re Dunn*, 9 Mo. App. 255, it is held that under this section an ordinance empowering a committee of either house to send for witnesses and to compel the production of books and papers, is not unconstitutional as an assumption of judicial power; and that either house may punish for contempt any witness who refuses to produce books material to a pending inquiry and properly called for in a *subpoena duces tecum*.

Sec. 32. Power to distribute duties and abrogate offices.—The Assembly shall have the power, by a vote of three-fourths of the members of each house, to transfer and distribute the powers and duties, in part or in whole, of any office provided for in this Charter to another, or others, and in such case the performance of the powers or duties added to those of any office shall not entitle its officer to additional compensation, and in case the entire powers and duties of an office be so transferred and distributed, the compensation of the holder of such office shall cease, and he shall no longer be the officer thereof.

Power to create offices by two-thirds vote: see Charter, Art. IV, sec. 45; power to define, change, increase or diminish duties: see Charter Art. IV, sec. 28; as to salaries see note to Art. XVI, sec. 17.

The assembly may repeal an ordinance creating an office and thereupon the office is abolished and the term of the incumbent ended, together with the right to the salary; the power to enact an ordinance is the power to repeal it: *Magner vs. St. Louis*, 179 Mo. 495; *State ex rel. vs. Longfellow*, 95 Mo. App. 660, 665; *Primm vs. Carondelet*, 23 Mo. 22.

The duties which were by Art. XI, sec. 5, cast upon the Chief of the Fire Department were transferred to the Building Commissioner, under this section of the Charter: see Rev. Code, sec. 27.

Sec. 33. Appropriations for charitable purposes.—The Assembly shall not appropriate any money for charitable purposes, except such as shall be subject to its own supervision and administration, under a system of suitable arrangements to be established, whereby the partakers of the charity shall respectively earn what they receive to the extent of their ability.

See as to power of city to appropriate moneys for donations, etc., discussion and cases cited in note to sec. 30 of this article, *supra*.

Sec. 34. Restrictions as to quarries, etc.—No stone quarry shall be opened, or brick-kiln located, or soap factory, slaughter house, bone or rendering factory erected within the distance of 300 feet of any dwelling house built and inhabited before such opening, location or erection, without the consent, in writing, of the owner and of the occupant of every such house. The Assembly shall provide, by ordinance, for the effectual enforcement of this act.

Power to regulate stone-quarries, brick-kilns, soap factory, slaughter house, bone or rendering factory, etc. see Charter, Art. III, sec. 26, clause 6.

As to ordinances respecting the subjects mentioned in this section (quarries, kilns, slaughter houses, soap and rendering factories, etc.) see Rev. Code, secs. 624, 625, 600-605. And see notes of authorities as to the validity of such ordinances appended to secs. 624, and in general note to "nuisances" in R. C., chap. 11, art. 12 (preceding sec. 584).

An ordinance providing no quarry shall be operated within 300 feet of a residence without the written consent of the occupant was upheld in *St. Louis vs. Frein*, 9 Mo. App. 590. (memorandum opin.)

Sec. 35. Restrictions as to cholera patients, etc.—No person, association or corporation shall knowingly receive for medical treatment of the invalid or sick, any patient sick with small-pox, plague, or cholera, unless authorized by an ordinance therefor. Every violation of this section shall be punished by a fine not less than one hundred dollars, nor more than three hundred dollars, to be collected as shall be provided for by ordinance.

As to infectious diseases in charge of health commissioner and his and Mayor's powers in case of epidemics see Charter, Art. XI, secs. 4 and 8.

Regulations and powers as to contagious diseases see Rev. Code, secs. 792-818. Quarantine and power to prevent spread of infectious diseases: Charter, Art. III, sec. 26, clause 6.

ARTICLE IV.

EXECUTIVE AND ADMINISTRATIVE DEPARTMENT.

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4. Gas Commissioner; bonds of officers.
5. Suspension and removal of officers.
6. Suspension of elective officers by Mayor; action of Council thereon.
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8. Appointed officers removed by Council; Mayor to fill vacancies.
9. Appointments by Mayor to be confirmed by Council; Council may elect officers, when.
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SECTION

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Section 1. **Elective officers and their terms.**—The following named city officers shall be elected by the qualified voters of the city, and shall hold their office for a term of four years, and until their successors shall be duly elected and qualified, viz: A Mayor, Comptroller, Auditor, Treasurer,

Register, Collector, Recorder of Deeds, Inspector of Weights and Measures, Sheriff, Coroner, Marshal, Public Administrator, President of Board of Assessors, and the President of the Board of Public Improvements.

For ordinance provisions on appointment, qualification and duties of city officers, see Rev. Code, Chapter 20, Art. 1.

City elections are held under general election law: See note to Charter Art. II. See also Scheme, sec. 5, as to elections. The term of Sheriff and Coroner is two years (not four, as provided in the Charter), by reason of the Constitutional mandate, Art. IX, sec. 10, until the constitutional amendment of 1906 becomes effective in 1908, when it will be four years. See as to interpretation of constitutional provisions relating to Sheriff, discussion in *State ex rel. vs. Bus*, 135 Mo. 325, 336-337, referring also to this section of the Charter. These officers are elected at the State election, and were eligible only four years in any period of six, (ib.) As to License Collector: *Laws 1901*, pp. 80-82; "The Mayor, Comptroller, Auditor, Treasurer, Register, Collector, Inspector of Weights and Measures, Marshal, President Board of Assessors and Board Public Improvements are elected for a term of four years, at the municipal election on first Tuesday of April; also the President of the Council and half of the councilmen (six); and for two years each member of the House of Delegates, one from each ward (28). At the municipal election held every two years after the election of the city officers, the members of the House are elected for two years and the other six Councilmen for four years. The Recorder of Deeds and Public Administrator are elected for a term of four years at the general State election," etc.: (McQuillin's Note to M. C., p. 227.)

Sec. 2. Appointive officers and their terms—first appointments under Charter to be for two years.—The Mayor shall appoint the following officers, who shall hold their office for four years, and until their successors shall have been duly appointed and qualified, to-wit: A City Counselor, such District Assessors as may be provided by ordinance, Superintendent of Workhouse, Superintendent of House of Refuge, Superintendent of Fire and Police Telegraph, Commissioner of Supplies, Assessor of Water Rates, two Police Justices, Attorney, Jailer, and five Commissioners on Charitable Institutions: *Provided, however*, that the first appointments under this Charter shall be for two years only, so that the appointments made thereafter, shall be made at the beginning of the third year of the Mayor's term.

All terms of office are limited by the Constitution not to exceed four years: Art. IX, sec. 14; Art. XIV, sec. 8. But these provisions do not apply to an officer holding at pleasure of appointing power and not for a definite term: *State ex rel. vs. Johnson*, 123 Mo. 43, 49.

As to the effect of the provision "and until their successors shall have been duly appointed and qualified" see *State ex rel. vs. Smith*, 87 Mo. 158; *State ex rel. vs. Thomas*, 102 Mo. 85. Similar provision in sec. 10 of this article.

Ordinances on when Mayor is to send in his nominations of officers to the council see R. C., sec. 1685; as to enumeration of officers to be appointed by the Mayor see Rev. Code, secs. 1509-1511.

When appointment may be implied: See note to R. C., sec. 1686.

Sec. 3. Board of Public Improvements, how constituted.—He shall also appoint five commissioners, who shall be known as Street Commissioner, Sewer Commissioner, Water Commissioner, Harbor and Wharf Commissioner, and Park Commissioner, who, with the president thereof, shall constitute the Board of Public Improvements.

Sec. 4. Gas Commissioner.—In case the city at any time become the owner of any gas works, then there shall be added to the commissioners before named, a Gas Commissioner.

Bonds of officers.—All city officers shall give such a bond for the faithful performance of their duties as the Municipal Assembly shall ordain; said bonds shall be approved by the Mayor and Council.

As to giving bond by the municipal officers, and effect of failure so to do, and suit for breach thereof, see Charter, Art. IV, sec. 43 and cases there cited.

As to ordinances on bonds and their approval, etc., see Rev. Code, secs. 1676-1684; also sec. 1506; (Constables, sec. 1678.)

Sec. 5. Suspension and removal of officers.—Any elected city officer may be suspended by the Mayor, and removed by the Council for cause; and any appointed officer may be removed by the Mayor or Council for cause. In either case the Mayor shall, temporarily, fill the vacancy, except as hereinafter provided.

For ordinance provisions relating to suspension and removal of officers, causes, procedure, filling vacancies, etc., see Rev. Code, Ch. 20, Art. 2, secs. 1691-1706; for removal of Mayor, R. C., sec. 1512. As to filling vacancies in appointive officers removed by Mayor or council see in addition to above Charter provision (sec. 5) Rev. Code, secs. 1703-1704; filling vacancies by Mayor where appointive officer removed by council, etc., see Charter, Art. IV, sec. 8; R. C., sec. 1704. Filling vacancy in elective offices see Charter, Art. IV, sec. 6; also sec. 13 and note; R. C., sec. 1689, filling temporary vacancy caused by suspension see also R. C., sec. 1694.

Filling vacancy in Municipal Assembly see Charter, Art. III, sec. 7.

As to removals by Commissioners of Charitable Institutions see Charter, Art. IV, sec. 49 and note thereto; also Rev. Code, sec. 1720.

The state statute (Rev. St. 1899, sec. 2346) provides that if any city officer becomes interested in any city contract, etc., he is guilty of a misdemeanor, and if appointive he shall be dismissed by the Mayor, if elective the Mayor shall suspend such official, report to the council, which shall try him and by two-thirds vote dismiss him: *State vs. Kelly*, 103 Mo. App. 711, 714.

An office is vacant in legal intendment for all purposes of election and appointment when the term has expired, as in case of death, resignation or removal, and also where the incumbent is a locum tenens or holdover holding until his successor be appointed or elected and qualified, provided provision is made by law for filling the office by appointment or election: *State ex rel. vs. Thomas*, 102 Mo. 85, overruling *State vs. Lusk*, 18 Mo. 333 and following *State vs. Seay*, 64 Mo. 88 (holding a vacancy occurs where one dies after election and before commencement of term), and *State ex rel. vs. Stonestreet supra*; but for purposes of salary, and continuing the office so that there is no vacancy in the functions thereof a different rule applies. See for instance *State ex rel. vs. Smith*, 87 Mo. 158.

The word "officer" in this section (Charter, sec. 5, Art. IV) means such as is referred to in the Charter. An inspector of buildings is not an officer within the meaning of this section: *Magner vs. St. Louis*, 179 Mo. 495, 502; *State ex rel. vs. Longfellow*, 95 Mo. App. 660.

As to who is an "officer" see note to Chart., Art. IV, sec. 43 and cases there cited.

Right to salary of suspended or removed officer is discussed in the note to Art. XVI, sec. 17; see also ordinance, sec. 1705 of R. C.

Power to remove ordinarily includes power to suspend: *Blackwell vs. Thayer*, 101 Mo. App. 661; *State ex rel. vs. Lingo*, 26 Mo. 496, 499 (under St. Louis ordinance and Charter).

"The power to amove a corporate officer from his office, for reasonable and just cause, is one of the common law incidents of all corporations. . . . For the reason of the thing, from the nature of corporations, and for the sake of order and government, the power is incidental:" *State ex rel. vs. Walbridge*, 119 Mo. l. c. 394, quoting from Dillon.

And the power to remove for cause is authorized by the general welfare clause of the Charter: *Id.*, p. 393.

An appointment for a definite term implies that the incumbent cannot be removed except for cause designated by law, per Reyburn, J., in *Horstmann vs. Adamson*, 101 Mo. App. 119, 124; *State ex rel. vs. Brown*, 57 Mo. App. 1. c. 204.

And a right to remove only for cause implies that there must be reasonable notice, and specifications of the charges made, and an opportunity to be heard by the one sought to be removed, and this even where there is no express provision to that effect since this is implied as intended: *State ex rel. vs. Walbridge*, 119 Mo. 383, 394-395; *State ex rel. vs. St. Louis*, 90 Mo. 19; *State ex rel. vs. Walbridge*, 62 Mo. App. 162, 164; *State ex rel. vs. Brown*, 57 Mo. App. 199.

In such case, where neither the Charter nor ordinances make any provision for the means whereby the motion or removal of an appointive officer is to be effected, yet if the grant of power is given, all the means necessary to effectuate the power pass as incidents of the grant: *State ex rel. vs. Walbridge*, 119 Mo. 383, 394, 396. ("The Mayor has all the power necessary to carry into effect the authority granted by the Charter.")

The record of the proceedings of the Mayor in exercising power of removal vested in him by Charter, should show, in case of an appointive officer, that charges sufficient in law were preferred against him, that due notice was given, and a trial had whereat he was permitted to be heard, and an order of removal for cause entered: *State ex rel. vs. Walbridge*, 62 Mo. App. 1. c. 164-165.

An attempted removal which is unlawful will not prevent the incumbent from recovering his salary by mandamus: See authorities in note to Chart., Art. XVI, sec. 17.

Where the Charter permits removal "for cause" but does not specify what causes are sufficient, the question of what cause is sufficient is a judicial one to be determined by the court from the circumstances in each case; what would be cause as to one office might not be as to another office: *State ex rel. vs. Walbridge*, 69 Mo. App. 657, 1. c. 669.

A general allegation of misconduct in office is too vague and indefinite; the specific acts complained of should be stated in the record of the tribunal trying the officer, in order that it might appear, as a matter of law, that it has jurisdiction of the alleged offense; the proceeding is summary, and the record should be precise; no intendment can be indulged as to the jurisdiction and regularity of the proceedings: *State ex rel. vs. Lupton*, 64 Mo., 415, 417.

But where the law conferring the authority to make the appointment is silent as to the right of removal, and there is no limitation as to the tenure, the right to appoint carries with it the absolute right to remove, without notice, and at pleasure: *Horstmann vs. Adamson*, 101 Mo. App. 119, 125, citing a number of authorities on the point, state and federal; *State ex rel. vs. Johnson*, 123 Mo. 43, 50. See also *Shurtleff vs. U. S.*, 189 U. S. 311, 314.

And an officer holding over after the expiration of his term, who is a mere *locum tenens* until his successor is appointed, may be removed at pleasure by the appointing power at any time without notice or cause: *State ex rel. Rife vs. Hawes*, 177 Mo. 360, and cases cited; *State ex rel. vs. Stonestreet*, 99 Mo. 377 (holding also that in making subsequent appointments the executive cannot disregard the term as fixed by law, but can fill only the unexpired portion of the term as it would be if there had been no holding over).

Neither above Charter provision (Art. IV, sec. 5) nor ordinance provisions (now R. C. 1691 et seq.) were repealed by the state statute providing for the removal of any state, county or city officer guilty of willful and corrupt neglect of official duty and for trial by jury if demanded: *State ex rel. vs. Walbridge*, 119 Mo. 383.

Sec. 6. Suspension of elective officers by Mayor—action of Council thereon.—Whenever the Mayor shall suspend any elected officer, he shall immediately notify the Council of such suspension, and the causes therefor.

If the Council be not in session, then he shall immediately call a session of the same in such manner as shall be provided by ordinance. The Mayor shall present charges against such suspended officer to the Council, and furnish a copy of the same to said officer, who shall have the right to appear with a legal adviser before the Council for his defense. If a majority of all the members elected shall, by resolution, sanction the action of the Mayor, then the suspended officer shall thereby be removed from office and a new election shall be ordered to fill the vacancy; but if a majority disagree with the Mayor, then he shall be immediately reinstated.

Suspension and removal of elective officer by Mayor and filling vacancy: See also in addition to this section (sec. 6) preceding section (5) and note thereto appended; also ord. R. C., sec. 1695 *et seq.*; Charter, sec. 13 of this article. As to removal by council see *infra* sec. 12; Rev. Code, sec. 1704.

Sec. 7. Removal of appointive officers and filling of vacancies.

—Whenever the Mayor shall remove any appointed officer from office, he shall immediately notify the Council of such removal and the causes therefor, and said Council shall fill the vacancy by electing a suitable person to fill the place. If the Council be not in session, the Mayor shall temporarily fill the vacancy, and shall report the fact of the removal at the next session of the Council. The Mayor shall have the same power of removing an officer so elected as if he had been appointed by the Mayor.

See note to sec. 5 of Art. IV, *supra*.

Sec. 8. Appointive officers removed by Council—Mayor to fill vacancies.—All officers appointed by the Mayor shall be subject to removal by a majority of the elected members of the Council, but if so removed, the Mayor shall fill the vacancy by another person, and no confirmation of the Council shall be required. Whenever the removal of any officer by the Council be proposed, and the same is not in session, the President thereof shall, upon a request in writing of five of its members, call a session thereof for the consideration of such removal.

See notes to preceding sections; Rev. Code, sec. 1704.

Sec. 9. Appointments by Mayor to be confirmed by Council—Council may elect officers—when.—All appointments made by the Mayor shall require the confirmation of a majority of the members of the Council. If the Council shall refuse to confirm the appointment of the Mayor, then he shall, within ten days thereafter, nominate another person to fill the office, and he may continue to nominate until his nominees are confirmed. If the Mayor fails to make another nomination within ten days from the rejection of a nomination, then the Council shall elect a suitable person to fill the office during the term.

See R. C., sec. 1685.

An ordinance which required in addition to the approval by the council that the city chemist shall receive the approval of the board of health, even if such addition be unauthorized, does not render void the appointment in accordance therewith, as the greater includes the lesser requirement: *St. Louis vs. Liessing*, 190 Mo. 464, 491.

Sec. 10. Qualifications of elected and appointed officers.—All elected and appointed officers shall possess the following qualifications: They

shall have been citizens of the United States and of the City of St. Louis for at least two years previous to their election or appointment, and shall be able to read and write the English language. They shall not at the time of their election be in arrear to the city for taxes, or indebted to the city in any way. They shall not be interested either directly or indirectly in any contract with the city, either for work to be performed or supplies to be furnished. They, excepting the Commissioners on Charitable Institutions, shall not hold any State or Federal office, and shall hold their offices until their successors are duly qualified.

General qualifications of city officers as required by ordinance: See R. C., sec. 1673. By Const., Art. IX, sec. 18, no person can be both state and city officer or fill two municipal offices (excepting from its operation, notaries, justices of the peace and militia). A member of the General Assembly cannot be appointed to a municipal office: State ex rel. vs. Valle, 41 Mo. 29. But there is no constitutional inhibition against a sheriff or deputy sheriff (who is not a state officer within the meaning of this section) from also holding the office of school director: State ex rel. vs. Bus, 135 Mo. 325, with discussion of the various provisions and citation of cases construing same.

Free passes on railroads operate to forfeit office: Const., Art. XII, sec. 24.

As to qualifications of municipal assemblymen see Charter, Art. III, secs. 6 and 10 and note.

A collector or receiver of public money or an assistant or deputy is ineligible to office until he has paid over the public money he may be accountable for: Const., Art. II, sec. 19.

Residence and citizenship: "No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the U. S. and who shall not have resided in this State one year next preceding," etc. Const., Art. VIII, sec. 12. See Barclay, J., in State ex inf. vs. Vallins, 140 Mo. 1 c. 537; See as to residence in city being necessary qualification, Charter, Art. IV, sec. 19. For a case where it was held that one elected was not entitled to office because under the facts in evidence he was not a citizen of the city of St. Louis as required by Charter, Art. IV, sec. 10, see State ex rel. vs. Williams, 99 Mo. 291.

Payment of taxes on the day of election is in time to avoid ineligibility: State ex inf. vs. Berkeley, 140 Mo. 184. A receipt for taxes made the day after an election without specifying amount or property, is worthless as evidence to show payment of taxes: State ex rel. vs. Williams, 99 Mo. 291.

Officers not to be interested in city contracts. The provisions of this section of the Charter do not apply to an election commissioner in the City of St. Louis, who comes neither within the letter nor spirit of the prohibition: State ex rel. vs. Meier, 96 Mo. App. 160.

Rev. St. 1899, sec. 2346, provide that a city officer who becomes interested in a city contract is guilty of a misdemeanor and subject to removal: State vs. Kelly, 103 Mo. App. 711, 714; so by Charter, Art. XVI, sec. 11. See also as to validity of city contracts, note to sec. 7 of Article XVI of Charter.

For authorities on analogous points, and those of other states see discussion in McQuil, unofficial work on "Amended Charter," pp. 244-246; also in M. C., p. 230. The principle is the same as that which prevents a trustee or administrator in dealing with himself in the trust funds: See Dillon Mun. Corp., sec. 444 (4th Ed.); Woerner on Administration (2nd Ed.) sec. 334 p. *700 et seq.; *ib.* sec. 487, p. *1082 *et seq.*

In view of the provisions of the Constitution, statutes, Charter and common law, there is little doubt that contracts by the city, with a city official, or with a firm or corporation in which a city official is interested, are void, and recovery thereon cannot be had against the city; it was so held in an opinion by City Counselor Bates, reviewing the authorities and legal provisions applicable in an opinion dated June 9, 1902 (number 534 of Law Dept. files). Amongst the cases cited by him are: Berka vs. Woodward, 125 Cal. 199 (45 L. R. A. 420); 4 Pa. Dist. Rep. 707; State vs. Alderman, 34 N. J. L. 390; Call Pub. Co. vs.

Lincoln, 29 Neb. 149; Gas Co. vs. City, 28 Neb. 852; Bellaire Co. vs. Findlay, 5 Oh. C. C. 418; Bell vs. Quinn, 2 Sandf. 146; Currie vs. School District, 35 Minn. 163; Findlay vs. Pertz, 66 Fed. 427 (29 L. R. A. 188); Borough of Milford vs. Water Co., 124 Pa. St. 610; People vs. Township, 11 Mich. 222; Pickett vs. School District, 25 Wis. 551; Fort Wayne vs. Rosenthal, 75 Ind. 156; Smith vs. Albany, 61 N. Y. 444; State vs. Water Co., 56 N. J. L. 422; Sherlock vs. Village of Winnetka, 68 Ill. 530; McAdam vs. Alderman, 36 Hun (N. Y.) 340; State vs. Richards, 28 L. R. A. 298 (Montana).

Sec. 11. Officers to devote their entire time to official duties—hours for municipal business.—Any city officer, excepting the Mayor and Commissioners on Charitable Institutions, who shall, except when absent from the city, fail to devote his entire time during business hours to the duties of his office, shall be removed or suspended by the Mayor or Council. All city offices shall be kept open from eight o'clock a. m. to six o'clock p. m. from 1st of April to 1st of October, and from nine o'clock a. m. to five o'clock p. m. from 1st of October to 1st of April.

"No person elected or appointed to any office or employment of trust or profit under the laws of this state, or any ordinance of any municipality in this state, shall hold such office without personally devoting his time to the performance of the duties to the same belonging": Const., Art. II, sec. 18.

By Laws Mo. 1903, p. 93, amending R. S. 1899, sec. 6247, it is made the duty of heads of departments of cities of over 300,000, etc., where there are deputies, assistants or clerks to close the doors of said office at 12 o'clock on Saturdays, except when the necessities of the service require them to work; and the provision does not apply to fire and police forces. (See Laws Spec. Appl. to St. Louis, ante p. 160, sec. 349, Chap. 12.)

As to leave of absence see Rev. Code, sec. 1688.

No deduction from the legal salary can be made because an officer does not devote his time to his official duties: Bates vs. St. Louis, 153 Mo. 18 (see as to right to salary note to Art. XVI, sec. 17).

Sec. 12. Removal of elected officers by Council—removal of Mayor.—Any elected city officer may be removed from office by a two-thirds vote of all the members of the Council, notice thereof and an opportunity to be heard by counsel being given to said officer. In case the Mayor shall be removed from office, then the President of the Council shall act as Mayor until a Mayor is elected. Whenever any city officer shall be removed from office by the Council the yeas and nays shall be recorded on the journal of that body.

See discussion and authorities in note to sec. 5 of this article. See same section for removal and suspension of officers.

Ordinances for vacancy in office of Mayor, see R. C., secs. 1513, 1514; for removal of Mayor by council: R. C., sec. 1512. Vacancy in Mayor's office within 6 months of expiration of his term see next section (sec. 13).

Sec. 13. Vacancies in elective offices—how filled.—In case any elective office shall become vacant within six months from the expiration of the time for which its incumbent shall have been elected, then the Council shall by election fill the vacancy for the unexpired term. In case the Mayor's office shall become vacant within six months from the expiration of his term, then the President of the Council shall be *ex-officio* Mayor for the unexpired term.

See for ordinance similar to this section R. C., sec. 1689; ord. for filling vacancy in Mayor's office see R. C., secs. 1513-1514.

As to the suspension and removal of officers, existence and filling of vacancies see note to sec. 5 of this article.

The above section 13, providing for filling vacancies occurring in an elective office *within* six months of expiration of term, etc., does not (in view of Art.

III, sec. 26, clause 8) exclude the right of the municipal assembly to make provision for filling a vacancy occurring *more* than six months before the expiration of the time for which the term runs, and the ordinance applying to such case (now R. C., sec. 1690) is valid: State ex rel. vs. Thomas, 102 Mo. 85, 89.

Sec. 14. Deputies of Sheriffs, etc.—The Sheriff, Coroner and Marshal may have such deputies as may be provided by ordinance.

Assistants may be removed.—The assistants of any officer shall hold their position during good behavior, unless otherwise provided by ordinance, but may be removed for cause by the Mayor, or by the officer under whom they work, at his pleasure.

See note below.

Offices to be in City Hall.—All offices of the several departments of the city shall be in the City Hall or some other building owned by the city, unless otherwise specially provided by the Assembly.

Deputies of Marshal, see R. C., sec. 1332. Duties of Marshal, see Charter IV, sec. 31; R. C., secs. 1329-1333; Scheme, secs. 6, 18, 27, 30.

Sheriff's duties and powers: Scheme, sec. 18; Especially Act on Sheriffs and Coroners in St. Louis R. S. 1899, pages 2548-2551; also set out herein under "Laws Specially Applicable to St. Louis," Chapter 29, secs. 550-568; when entitled to counsel see *ib.* sec. 568; R. S. 1899, sec. 10046.

Coroner's duties and powers: Scheme, sec. 5; R. S. 1899, pages 2548-2551, set out herein "Laws Sp. Ap." etc., secs. 555, etc. As to election of coroner see note to Charter, Art. IV, sec. 1.

Assistants to officers: Inspectors of buildings are "assistants" to the Building Commissioner within this section and removable by him at pleasure: *Magner vs. St. Louis*, 179 Mo. 495, 504; State ex rel. Knittel vs. Longfellow, 93 Mo. App. 364 and State ex rel. vs. Longfellow, 95 Mo. App. 660.

Offices in City Hall: There is no law prohibiting the removal of the recorder's office from the old courthouse to the new city hall, nor does it make any difference that the latter is on ground which was outside the city limits when the city was the county seat: *Babcock vs. Hahn*, 175 Mo. 136.

Sec. 15. Qualifications of Mayor.—The Mayor shall be the chief executive officer of the city; shall be at least thirty years of age. When the Mayor ceases to possess the qualifications required in this Charter, his office shall become vacant.

The provision originally contained in this section (15) requiring the Mayor to be a freeholder of property in the city, was superseded and annulled by provisions of Rev. St. 1899, sec. 5259, and is omitted.

Sec. 16. Duties of the Mayor—may remit fines, etc.— may appoint examiners.—He shall, from time to time, give the Assembly information relative to the state of the city, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city. He shall take care that the laws of the State and the ordinances of the city are respected and enforced within the city; and may remit fines, costs, forfeitures and penalties duly imposed for violation of any ordinance, and shall make a report of the same to the Assembly at every session thereof. He shall have power to appoint a competent person, or persons, to examine the affairs of any department, or departments, whenever he shall deem it necessary.

Ordinances specially respecting and relating to Mayor, are contained in Rev. Code, Chap. 17, secs. 1487-1514 inclusive; sec. 1493 being a literal repetition of this charter clause.

As to remission of fines, penalties, etc., see also note to R. C., sec. 1497, and of police court's power to remit, see note to sec. 1308. The authority of the Mayor

to remit a fine can only be exercised after the fine has been imposed: *State ex rel. vs. Noonan*, 59 Mo. App. 1. c. 529, relying on *State ex rel. vs. Francis*, 95 Mo. 44.

Where the power to confer a grant is in the Mayor and assembly, a permit alone from the Mayor is void: *Lockwood vs. Ry.*, 122 Mo. 1. c. 95; *State ex rel. vs. Noonan*, 59 Mo. App. 1. c. 528; nor can the Mayor alone appoint an attorney so as to make the city liable for his services: *Carroll vs. St. Louis*, 12 Mo. 444. Mandamus lies to compel the Mayor to revoke an illegal permit, the immunity from judicial control appertaining to the office of Governor not attaching to the mayoralty: *State ex rel. vs. Noonan*, 59 Mo. App. 524.

Sec. 17. Absence of Mayor—how provided for.—The President of the Council shall perform the duties of Mayor whenever, and so long as the Mayor from any cause is unable to perform his official duties. If the Mayor and the President of the Council are both absent from the city, or otherwise disabled from performing the duties of the Mayor, the Speaker of the House of Delegates shall, for the time being, discharge the duties of said office, and either of them, while acting as Mayor, shall receive the same compensation as the Mayor.

The ordinance (R. C., sec. 1494) is literally the same as above. The compensation of the Mayor cannot be reduced because of his absence: *Bates vs. St. Louis*, 153 Mo. 18, 22.

Sec. 18. Special sessions of the Municipal Assembly.—The Mayor may, by proclamation, call special sessions of the Assembly, giving not less than three days' notice, and shall specially state to them, when assembled, the objects for which they have been convened, and their action shall be confined to such objects.

Ordinance provision Rev. Code, sec. 1496, is the same as above; other ordinance provisions as to how special session to be called see Rev. Code, sec. 1379.

Under the above charter provision (sec. 18, Art. IV) the municipal assembly specially convened, can legislate only on subjects specially stated to it at the time that it is so assembled, and note on any additional matter that is communicated to it by the Mayor while in session but after the session began; and the Mayor must "specially state" the object when convening the session: *St. Louis vs. Withaus*, 90 Mo. 646, affirming 16 Mo. App. 247 and holding an ordinance passed at such session void as not within the object stated in the opening message, although in the latter it was stated that other matters might be submitted.

But a reference in general terms that legislation was desired under designated articles and sections of the St. Louis Charter, was held to be sufficiently definite in *Allen vs. Rodgers*, 20 Mo. App. 290.

So also it was thought by the Kansas City court of appeals that where the Kansas City charter provided for special sessions on call of the mayor, and publication in the papers as provided by ordinance, and there was no such ordinance, that such session and ordinances passed thereat, are void, because there was no publication; but the court further thought that inasmuch as the popular construction was otherwise and had been acted on for several years, so that a different construction "would unsettle many titles, distract, if not destroy, many private interests, and impair the public faith and confidence in a great variety of merely governmental regulations adopted at these special meetings," it was constrained to uphold the validity of such meetings, notwithstanding the court thought them void: *Forry vs. Ridge*, 56 Mo. App. 615, 622, followed in *McQuiddy vs. Vineyard*, 60 Mo. App. 1. c. 619.

Sec. 19. Officers to reside within the city.—The permanent residence of the Mayor and all other officers of the city except when otherwise provided by ordinance, shall be within the limits or jurisdiction of the city; otherwise their offices shall become vacant.

For ordinance see R. C., sec. 1687.

See as to residence and citizenship being qualification, Art. IV, sec. 10, and note.

Sec. 20. Duties of Comptroller.—The Comptroller shall exercise a general supervision over the fiscal affairs of the city; the collection and return into the treasury and disbursement of all revenue and moneys of the city; of all property, assets, and claims, and the sale or other disposition thereof; and, by and with the advice and consent of the Mayor, shall see that all necessary official and legal proceedings are had for the protection of the city's interests in all such property, assets and claims; that proper rules and regulations are prescribed and observed in relation to all accounts, settlements and reports, connected with the fiscal concerns of the city; that no liability is incurred, or expenditure made from the treasury, without due authority of law; and that appropriations are not overdrawn. He is especially charged with the preservation of the credit and faith of the city in relation to its public debt and other liabilities, and whenever it is necessary to meet payments thereof, principal or interest, he shall, with the written approval of the Mayor, make his requisition for a warrant on the treasury for that purpose; and shall, with the Mayor's written approval, do and perform any and all other acts and things, not inconsistent with the provisions of this Charter, and any ordinance thereunder, as are proper to accomplish the duties contemplated herein. He shall make annual reports to the Assembly and to the Mayor on his request, on the financial condition and requirements of the city, with careful statements and estimates of receipts and expenditures. The records in his office shall show the financial operations, conditions, property assets and claims of the city, the expenditures authorized for public works, and all contracts, with names of contractors, in which the city is interested, and the bonded or other indebtedness of the city. He shall require all claims returns, settlements, or reports to be verified by affidavit. He shall countersign all warrants drawn on the city treasury for any payments, except as hereinafter provided, and shall duly record the amount and nature of same. He shall have access to the books and other records of any department under the city government, whenever he so desires, and he shall see that the accounts of the city are kept in a plain, methodical manner.

See Rev. Code, sec. 2427.

Bond of Comptroller.—He shall give bond to the city in the sum of not less than three hundred thousand dollars, with not less than three good securities, holders of unincumbered real estate in the City of St. Louis, to be approved by the Mayor and Council.

See Rev. Code, sec. 2426.

Additional duties of Comptroller.—He shall have a seat in either branch of the Municipal Assembly, with a right to debate on any question pertaining to his department, but shall have no vote. Should any judgment be rendered against the city, for which no provision has been made by ordinance, or otherwise, the Comptroller is authorized, with the approval of the Mayor, to effect a temporary loan to meet the same, and to do and perform all other acts with the approval of the Mayor, necessary to preserve the credit and property, or rights of the city, and perform such other duties as may be provided by ordinance. All delinquent or special tax-bills, and all other claims, marshal's, sheriff's, or constables' deeds or certificates of sale, in the nature of liens on property in which the city is directly or indirectly interested as owner or creditor, shall be deposited with the Comptroller, and his receipts taken therefor and filed with the Auditor. He shall keep a full and complete register thereof, and whenever the Treasurer's receipt is

presented and filed in his office for any such bill or claim, he shall release the same on the register, and, when necessary, the Mayor and Comptroller shall execute a quit-claim deed for the property redeemed.

For ordinances specially relating to Comptroller hereunder, see Rev. Code, Chap. 37, Art. 3 (secs. 2425-2437), some of which are reiterations of these charter provisions; respecting treasury department, see Ch. 37, Art. 1 (secs. 2387-2405).

There are many other charter provisions and ordinances affecting the rights and duties of Comptroller.

Sec. 21. Duties of Auditor—official bond, etc.—The Auditor shall be the general accountant of the city, and as such it shall be his duty to receive and preserve in his office all accounts, books, vouchers, documents and papers relating to the accounts or contracts of the city, its debts, revenues, and other fiscal affairs, and to adopt a proper mode and manner of double-entry bookkeeping. He shall state and render all accounts filed or kept in his office between the city and other person or body corporate, except when otherwise provided by law or ordinance. He shall examine, adjust and audit all unsettled accounts, claims and demands against the city for the payment of which any money may be drawn from the city treasury, and after having examined the same with all accompanying vouchers and documents, shall certify thereon the balance or true state of such claim or demand, and draw his warrant on the Treasurer in payment thereof; but no such claim or demand, or any part thereof, shall be audited against the city unless it is authorized by law or ordinance, and is in proper and fully itemized form, and unless the amount required for the payment of the same shall have been appropriated for that purpose by the Assembly. He shall have power to administer oaths, and shall require settlements of accounts to be verified by affidavit, whenever he thinks proper, and shall keep the accounts of the city, general and special, in a systematic and orderly manner. He shall give bond to the city in the sum of not less than one hundred thousand dollars, with not less than three securities, who shall be holders of unincumbered real estate within the city, to be approved by the Mayor and Council. He shall audit all bills, when presented in proper form and duly authorized, bearing the necessary signatures, or certificates, and otherwise in accordance with the law and ordinance. He shall be responsible for all acts of his employes.

Ordinances specially relating to Auditor hereunder, see Rev. Code, Chap. 37, Art. 2 (secs. 2406-2424); and respecting treasury department *ib.* Art. 1.

See discussion and authorities as to Auditor, and his duties and powers, in note to said Art. 2 of Chap. 37 of Rev. Code.

Sec. 22. Duties of Treasurer.—It shall be the duty of the Treasurer to receive and keep the money of the city, and pay out the same on the warrants drawn by the Auditor and countersigned by the Comptroller, except as hereinafter provided. All moneys belonging to the city received by any officer or agent thereof, either from collections, loans, sale of bonds, fees, fines and penalties or otherwise, shall be deposited in the city treasury regularly once a day, unless otherwise provided by law or ordinance, and, in case the provisions of this section are not complied with, it shall be the Treasurer's duty to report any delinquencies to the Mayor. He shall give triplicate receipts in all cases, one for the party paying, one for the Auditor, and one for the Comptroller, which shall set out the amounts paid and from what it proceeds and to what account credited. All payments on account of pay-rolls shall be made by the Treasurer, after the same have been audited and placed in his hands therefor. His books shall at all times be open

to the inspection of the Mayor, Comptroller, or any member of the Municipal Assembly, and he shall report the balance in the treasury each day to the Comptroller and Mayor.

Rev. Code, sec. 2439.

Bond of Treasurer.—He shall give bond for the faithful performance of his duty in the sum of not less than five hundred thousand dollars, with not less than five securities, who shall be holders of unincumbered real estate within the city, to be approved by the Mayor and Council.

Rev. Code, sec. 2439.

Selection of banks for city deposit.—The Mayor, Comptroller and Treasurer shall annually select a bank or banking institution which will give the highest rate of interest for the current deposit of the city's funds: *Provided, however,* that before any deposit shall be made by the Treasurer, the said bank or banking institution shall give a bond for five hundred thousand dollars, with good and sufficient securities, to be approved by a unanimous vote of the fund commissioners, for the safe keeping and prompt payment of said funds or any part thereof, when demanded by the Treasurer, and shall at all times keep the securities on its bond satisfactory to said commissioners.

For ordinances specially applicable to Treasurer hereunder, see Rev. Code, Chap. 37, Art. 4 (secs. 2438-2446); for treasury department see R. C., Chap. 37, Art. 1 (secs. 2387-2405).

For state law concerning selection of banks for deposit of city funds, see Laws Mo. 1903, page 95, amending R. S. 1899, sec. 6251 (set out herein in "Laws Spec. Applicable to St. Louis") Ch. 21, secs. 397-398; see R. C., sec. 2439.

Sec. 23. Duties of Register.—The Register shall have the custody of the city seal, the public records, the original rolls of ordinances of the Municipal Assembly, all original contracts, deeds and certificates relative to the title of any property of the city, all official, penal, indemnity or security bonds, and such other records, papers, and documents of value, as are not required to be deposited with any other officer, all of which shall be registered by numbers, date, and contents; he shall attest all public instruments or official acts of the Mayor, by his signature and the seal of the city, and shall also certify, under his hand and the seal of the city, all copies of such original documents, records and papers in his office, as may be required by any officer or person, and charge therefor to individuals such fees as may be provided by ordinance, and he shall provide copies of all contracts in his office for the Auditor and Comptroller, when requested so to do by them. He shall have general supervision of the public printing, and shall see that it is executed as hereinafter provided; and shall cause to be printed, filed and preserved, in his office, all ordinances passed by the Assembly; shall register and preserve, in his office, all contracts, the oaths or affirmations taken by the city officers, and may administer such oaths or affirmations. He shall appoint such clerks as he may require, subject to the approval of the Mayor. He shall do and perform all duties now required of the Clerk of the County Court by any general or special law not inconsistent with this section or the Scheme, and shall exercise the same power, authority and jurisdiction as said clerk for the proper execution of the laws of this State.

Ordinances specially relating to Register: Rev. Code, Chap. 28, secs. 2062-2069. See also note to said Chap. 28 and to sec. 2062, as to the duties of the Register. He performs certain functions performed by the county officials before the separation of the City and County: See note thereon and references introductory to Art. I of the Charter, under "General considerations respecting the Charter—transfer of old county functions to corresponding City officials," etc.

Sec. 24. Duties of Collector—official bond, etc.—The Collector shall collect all city, State and school taxes, licenses, wharfage, and all other claims that the city may have against any person, and shall pay the same over to the Treasurer once each day. The State and school taxes collected by him shall be paid as provided by law. He shall give bond, for the faithful performance of his duties, in such sum as the Municipal Assembly may deem requisite, not less than two hundred thousand dollars, with five securities, who are owners of unincumbered real estate in the city, which shall be approved by the Mayor and Council; and shall keep the books and accounts of his office as may be directed by ordinance, or, in the absence of any definite requirements, the Comptroller shall prescribe the manner of keeping such books and accounts.

For ordinance provisions on Collector see R. C., Chap. 32, secs. 2288-2297. See also Charter, Art. IV, secs. 30 to 34 inclusive, and Art. V., secs. 30-35.

That provision of this section which requires the Collector to collect all licenses is superseded by the statute creating the office of license collector, and conferring on him the duties respecting licenses theretofore performed by the city collector or license commissioner. (Water, dramshop, boat and wharf licenses are excepted): See said statute law herein set out, with notes, in "Laws Specially Applicable to St. Louis," Chapter 17 (secs. 382-392); being Laws 1901, pp. 80, 82; and see further on this subject, particularly the notations to the Rev. Code, Chap. 30, constituting secs. 2104 to 2125. See also sec. 2288 et seq. And as to dramshop licenses see Chapt. 8 (secs. 229-236) of "Laws Specially Applicable to St. Louis," with notations, being R. S. 1899, sec. 3019 *et seq.*, as amended by Laws 1905, p. 141; and notes to R. Code, secs. 2150-2164.

Concerning the duties of Collector with respect to taxation in general see Charter, Art. V, secs. 30-35; also "Laws Specially Applicable to St. Louis," Chap. 26, sec. 469, 471-492 and notes.

Sec. 25. Police Justices, powers and jurisdiction of.—The police justices, or any acting justices *pro tem.*, shall have jurisdiction over all cases arising under this Charter, and of the violation of any ordinance, or of any provisions of this Charter, subject to appeal, either by the city or defendant, to the St. Louis Court of Criminal Correction, in like manner as provided by law for appeals from justices of the peace in criminal cases to their appellate court, and power to punish all contempts of court, by fine not exceeding one hundred dollars, and by imprisonment not exceeding ten days; and power to enforce all legal orders and judgments, as a court of record may; and power to give final judgment against the principal and security on any forfeited bond or recognizance returnable to this court, subject to an appeal, as in other cases.

As to ordinances on Police Justices and police courts and officials connected therewith, see Rev. Code, Chap. 13, Art. 1 and 2 (secs. 1261-1323).

For full discussion of matters relating to police courts under the charter provisions, and in general as to their jurisdiction, procedure, nature of the proceedings, effect thereof, appeals incident to police court matters, executions, violations of ordinances, and similar matters, see note to Rev. Code, sec. 1265; and also notes to secs. 1279, 1264, 1305 and other sections under Art. 1 of Chap. 13.

Sec. 26. Police Justices to be conservators of the peace, etc.—Justices of the Peace to have concurrent jurisdiction in certain cases.—The police justices shall be conservators of the peace through the city, and shall exercise the powers and perform the duties which may be prescribed by ordinance. The justices of the peace within the city shall have concurrent jurisdiction with the police justices in all cases under ordinances or charter, when the Mayor shall direct prosecution before them.

Sec. 27. Municipal Assembly may increase number of Police Justices and establish judicial districts—Courts of Police Jus-

tices, where held.—The Municipal Assembly shall have power, from time to time, by ordinance, passed by a vote of two-thirds of the members elected to each house, increase the number of police justices, who shall be appointed and hold office for a term of four years, as hereinbefore provided in reference to such justices. Said Assembly shall, by ordinance, divide the city into judicial districts, and may, from time to time, alter the same, and may also give, to the justices of such districts, exclusive jurisdiction of causes arising in their respective districts; and shall, by ordinance, provide for holding police courts whenever the justice of any such court is disabled or disqualified by absence, sickness or otherwise from holding the same; may authorize any other police justice or any justice of the peace of the City of St. Louis to hold such court and discharge the duties of such justice during the continuance of the disability or disqualification, and shall also provide for the trial of causes pending in the court of any police justice, in which said justice may be a material witness, or in which he may be interested or of kin to the defendant. The police justices shall hold their court in such places as may be provided by ordinance, and in the absence of and until such provision shall be made, they shall hold them at such places as the Mayor may direct.

Ordinances creating districts, holding court, jurisdiction, etc., see Rev. C., sec. 1261 *et seq.* As to creation of additional police court, see "Police Court South of Arsenal Street," Rev. Code, secs. 1318-1323.

Sec. 28. Municipal Assembly to define duties of city officers.—The Municipal Assembly shall, by ordinance, define the duties of all city officers, and may change, increase or diminish, them in a manner not inconsistent with this charter.

As to right of assembly to distribute charter duties amongst other officials, or to abrogate an office altogether, see Charter III, sec. 32 and note; as to power to create offices see Chart., Art. IV, sec. 45.

Assembly may define duties: *St. Louis vs. Liessing*, 190 Mo. 464, 491; in the absence of any definition of the duties of a public officer, his duties may be inferred from the nature of his office and employment: *State ex rel. vs. Walbridge*, 69 Mo. App. 657, 668.

An officer or city official has no vested interest in his office, and the city may abrogate the office and thereby cut off the salary: *Magner vs. St. Louis*, 179 Mo. 495; *Primm vs. Carondelet*, 23 Mo. 22.

And hence in this country official duties may be modified, or changed, or abrogated, without the consent of the incumbent: See *State ex rel. vs. Valle*, 41 Mo. 29; *Westberg vs. Kansas City*, 64 Mo. 1. c. 503.

As to right of officers to recover salary, see also note to Art. XVI, sec. 17.

Sec. 29. Commissioner of Supplies, his duties, etc.—contracts to be approved by Mayor.—The Commissioner of Supplies shall purchase all articles needed by the city in its several departments. The Municipal Assembly shall provide, by ordinance, for the purchase of all articles, so far as practicable, by advertising for proposals at stated periods. All purchases made by him without advertising for proposals shall be approved by the Comptroller before the same shall become binding on the city. In advertising for proposals to furnish supplies, quantity and quality of all articles shall be fully stated, and any bidder may bid for any one article named. The award for each article shall, in all cases, be made to the lowest bidder therefor. The Commissioner of Supplies shall furnish to the bidders printed blanks, which shall be filled up by the bidders with the price of the article to be furnished, and shall, in specifying the quantity and quality of any article, recite the advertisement. All bids shall be sealed, and

opened at an hour and place to be stated in the advertisement for proposals, in the presence of as many of the bidders as may desire to be present, and shall be subjected to the inspection of the bidders. All bids having any alteration or erasure upon them shall be rejected. All contracts shall be approved by the Mayor before they shall become binding upon the city.

Ordinances on Supply Commissioner see Rev. Code, Chap. 36, secs. 2366-2386.

Judge Sherwood in his elaborate dissenting opinion in *Verdin vs. St. Louis*, 131 Mo. loc. cit. 161-164, considers this section (Art. IV, sec. 29) and distinguishes it from Art. VI, sec. 27, showing that the former applies only to the commissioner of supplies and applies only to a limited extent to the Board of Public Improvements when performing the duties assigned to it under Art. VI, sec. 27, and that the commissioner awards the contract to the lowest bidder without discretion. (But see present provision in R. C., sec. 2373.)

Art. VI, sec. 27, applies to letting contracts for public work. Art. XV applies to contracts for printing and binding.

Sec. 30. Inspector of Weights and Measures, duties, etc.—The Inspector of Weights and Measures shall, at least once in each year, and as much oftener as may be ordained by the Assembly, inspect every scale, weight and measure used in the City of St. Louis, for the purpose of determining the quantity of merchandise sold or offered for sale. The Assembly shall, by ordinance, fix the fee to be paid for such inspection, for which a license shall be granted in every case by the Inspector, and all such fees he shall monthly, report to the Comptroller, and daily pay into the city treasury. He shall keep a record of all scales and measures inspected by him, specifying date, place of inspection, and the names of the parties for whom the inspection is made. He shall receive a fixed salary for his services. No person within the City of St. Louis shall use any scale, weight or measure to determine the quantity of any merchandise sold or offered for sale, which shall not have been inspected and sealed by the said Inspector.

Inspection weights and measures see Chart. III, sec. 26, clause 7. For discussion and authorities see ordinances on the subject: R. C., Chap. 40, sec. 2531 et seq.

Sec. 31. City Marshal, duties, etc.—to serve and return notices of special tax bills.—The Marshal shall execute and return all processes and orders of the Mayor, Law Department, Health Department, Police Justices or Justices of the Peace, St. Louis Criminal Court and St. Louis Court of Criminal Correction, and all notices of special tax bills, under any law or ordinance, except as in this Scheme or this Charter otherwise provided; he shall keep a detailed account of the receipts of all money collected by his office, and of all delinquencies, and shall report all receipts and delinquencies, monthly, to the Comptroller; he shall appoint, with the approval of the Mayor, such deputies as he may require.

Marshal's duties, etc.: See Rev. Code, secs. 1329-1333; Scheme, secs. 6, 18, 17, 30; *State ex rel. vs. Walbridge*, 119 Mo. l. c. 395-396 (citing Charter, Art. IV, sec. 31); Report: Art. IV, sec. 48. As to Marshal's deputies see Chart., Art. IV, sec. 14; R. C., sec. 1332.

The above section is as amended at election on Oct. 22, 1901. The amendment was made to require the Marshal to execute "all notices of special tax-bills," thus providing an official record thereof, whereas prior thereto the service was left to the parties in interest.

Sec. 32. City Counselor, duties, etc.—The City Counselor shall be the chief law officer of the city. He shall prosecute and defend all suits originating or pending in any court of record, except the St. Louis Criminal Court and St. Louis Court of Criminal Correction, to which the city is a

party, or in which the city or any of its officers are officially interested; he shall advise either house of the Assembly or any committee thereof, in writing, when required, as to all legal questions that may arise before them. He shall advise the Mayor, and through him all other officers, in relation to their duties, or in relation to the interests of the city in which they are directly engaged, and from time to time make such reports in relation to the suits in which the city is interested as may be required by the Mayor or the Assembly. He shall have a superintending control over the business intrusted to the City Attorney, and when necessary he shall aid him in the discharge of the duties of his office, at the request of the Mayor.

As to ordinances relating to City Counselor, his duties, office, and associates and assistants, see Rev. Code, Chap. 14, Art. 2 (secs. 1348 to 1375). He is required to advise the Police Board: Charter, Art. XVI, sec. 4.

Sec. 33. Board of Public Improvements—meeting—duties of.—The Board of Public Improvements shall meet at least once in each week at its office to consider and take under advisement such business as may come before it. Said Board shall furnish through its President to the Mayor, the Municipal Assembly or either branch thereof, such data and information as may be required, or which it may from time to time deem necessary to impart. A majority of said Board shall form a quorum for the transaction of business, but no final action shall be taken in any matter concerning the special departments of any absent commissioner, unless this business has been made the special order of the day.

For ordinances on B. P. I. in general, see Rev. Code, Chap. 24, sec. 1904, and following. As to annual report of B. P. I. to Mayor see Art. IV, sec. 48; ordinances on salaries and bonds of members of B. P. I. and employes, R. C., Chap. 24, Art. 9, secs. 1995 to 2017, and see also references in notes to each head of department as given below.

Under the city ordinances (now amended and appearing as sec. 1909 in R. C.) in the absence of the Street Commissioner the assistant and acting Street Commissioner had the right to attend the board meeting, but not to vote; held that his attendance satisfied the provision that "no final action shall be taken in any matter concerning the special department of any absent commissioner," etc., when a unanimous vote is not required: *Construction Co. vs. Loevy*, 64 Mo. App. 430, 435 (s. c. 179 Mo. 455, no discussion on this point). As to ordinance of quorum see R. C., sec. 1914.

An appellate court cannot review the discretion of the B. P. I. unless it is so exercised as to be clearly subversive of public rights: *Gay vs. Tel. Co.*, 12 Mo. App. 485; *Forsythe vs. Tel. Co.*, 12 Mo. App. 494. As to discretion and duties of the board respecting contracts for Public Improvements see notes to Art. VI of Charter.

Record of board: It is true that the Charter does not, in express terms, direct the Board of Public Improvements to keep a record of its proceedings, but such a duty by necessary implication is imposed by reason of the important part or adjunct of the municipal government it fills. Its record is admissible in evidence to show a departure from jurisdictional forms prescribed by the Charter, but a finding of fact by the board is not conclusive: *Fruin Bambrick Co. vs. Geist*, 37 Mo. App. 509, 515.

Sec. 34. Members of Board to be heads of departments.—The Commissioners named in section 3 of this article shall be, respectively, the heads of their several departments, and shall be responsible for all actions of their employes.

See Rev. Code, sec. 1916.

Sec. 35. Street Commissioner—duties, etc.—The Street Commissioner shall have under his special charge the construction, reconstruction,

repairing and cleaning of the public streets, alleys and places, excepting parks.

Ordinances on Street Commissioner and his office in general, see Rev. Code, Chap. 34, Art. 3, secs. 1945 to 1954 and notes. Also R. C., secs. 1996 and 1076. As to duties, powers, etc., respecting streets, see the various articles of Chap. 12 of Rev. Code, relating to Highways. As to construction, reconstruction, repairing, etc., see Charter, Art. VI and notes; Rev. C., secs. 1945 *et seq.*; garbage, secs. R. C. 1199 *et seq.*; sprinkling, 941-1082.

Sec. 35 of Art. IV referred to: *Steffen vs. St. Louis*, 135 Mo. 44, 50.

Sec. 36. Sewer Commissioner—duties, etc.—The Sewer Commissioner shall have under his special charge the construction, repairs and cleaning of all public district sewers, inlets, manholes, and other appurtenances belonging thereto.

For ordinances in general on Sewer Commissioner and his office see Rev. Code, Chap. 24, Art. 4, secs. 1955-1956, and note; also *ib.* Art. 9, sections 1997, 2001, 2011. As to provisions concerning sewers, see Charter, Art. VI, secs. 20 to 23; ordinances Rev. Code, Chap. 34, secs. 2302 and following, and notes; also Charter III, sec. 26, clause 2, and notes thereto; and Art. VI, sec. 2.

Sec. 37. Water Commissioner—duties, etc.—The Water Commissioner shall have under his special charge the pumping machinery, reservoirs and water pipes, and other property connected with the waterworks. He shall have the superintendence over the enlarging of the works and the laying of water pipe, and shall exercise a general supervision over the entire water works department, excepting the collection of water rates.

For ordinances on Water Commissioner and his office see Rev. C., Chap. 24, Art. 5, secs. 1957 to 1963; also *ib.* Art. 9, secs. 1998, 2001, 2005 to 2010.

For Charter provisions see Art. VII, and notes.

Sec. 38. Harbor and Wharf Commissioner—duties, etc.—The Harbor and Wharf Commissioner shall have under his special charge the construction and repairs of dykes, wharf and levee, and shall be specially charged with the execution of all ordinances of the city which relate to dykes, wharf and levee, steamboats and all other boats, vessels and rafts. He shall furnish to the Collector such information as will enable the said Collector to collect wharfage and other dues from boats, vessels and rafts.

For ordinances on Harbor and Wharf Commissioner in general see Rev. Code, Chap. 24, Art. 6, secs. 1964 to 1969; 1999. Salaries and employes, R. C., secs. 1965; 2012-2014; 411.

Ordinances on Harbor and Wharf department see Rev. Code, Chap. X, secs. 345 to 436; Charter, Art. IX; see also city's power to regulate wharves, etc.; Charter, Art. III, sec. 26, clause 2, and note.

Sec. 39. Park Commissioner—duties, etc.—The Park Commissioner shall have under his special charge and control all the public parks and places and squares of the city, excepting such as are by this Charter, or by their dedication or other special provisions in the nature of a contract, excluded from the control of the city.

For ordinances on Park Commissioner and his office in general, see Rev. Code, Chap. 24, Art. 7, secs. 1970-1975. Salaries and employes: Rev. Code, secs. 2000-2002, 2015-2017.

As to Public Parks see Rev. Code, Ch. 25, and note; secs. 2018-2035; Charter, Art. VIII, and note.

Sec. 40. Gas Commissioner—duties, etc.—The Gas Commissioner shall have under his special charge and control all the property belonging to the city gas works, and shall exercise a general supervision over the said works and the laying of all gas mains and pipes, and erecting, repairing, lighting and cleaning street lamps.

Sec. 41. President of the Board of Improvements to have supervision over other commissioners, and authenticate special tax bills.—The President of the Board of Public Improvements shall preside at the meetings of the Board, and shall have charge of all the public improvements not specially provided for in this article. He shall have a general supervision over the departments of all other Commissioners of the Board of Public Improvements, and shall inform the Mayor or Municipal Assembly of any dereliction of duty of any Commissioner. He shall authenticate all special tax bills against property owners chargeable with special taxes for work performed or materials furnished under ordinances of the city which said bills shall be made out and certified to him by the head of the department under which said work is done or material furnished.

For ordinance on President Board Public Improvements, see Rev. Code, Chap. 24, Art. 2, secs. 1935 to 1944.

As to salaries and employes, see in addition to those in above sections: Rev. Code, secs. 1995, 2003, 2004.

As to duties in connection with special tax bills for improvements, etc., see Charter, Art. VI, sec. 24, and notes thereto. The duties of the President involve the exercise of high discretion and cannot be delegated: *Stifel vs. Co.*, 38 Mo. 340.

Sec. 42. Assembly may provide additional duties for Board.—The Municipal Assembly shall provide by ordinance such additional duties of and requirements from the Board of Public Improvements and its several members, as it may deem necessary, and for the appointment by them of such assistants and employes as the demands of the several departments may require.

For ordinances in pursuance to this section see references in the several preceding sections. For note on this section see McQuillin's Amend. Chart. (unofficial work) p. 271.

Sec. 43. Oath of city officers—bond of same.—Every officer of the city and his assistants, before entering upon the duties of his office, shall take and subscribe to an oath or affirmation before some judge or justice of the peace or the Register, that he possesses all the qualifications prescribed for his office by the Charter; that he will support the Constitution of the United States, and of the State of Missouri, and the Charter and ordinances of the City of St. Louis, and that he will faithfully demean himself in office. And every officer of the corporation, when so required by law or ordinance, shall, within fifteen days after his election or appointment, and before entering upon the discharge of the duties of his office, give bond to the city in such sum as shall be designated by ordinance, conditioned for the faithful performance of his duties, and that he will pay over all moneys that belong to the city as provided by law. If any person elected or appointed to an office shall fail to take and subscribe such oath or affirmation, or give bond as herein required, his office shall be deemed vacant. For any breach of the condition of said bond, suit may be instituted thereon by the city, or by any person in the name of the City of St. Louis, for the use of such person or persons.

See note below.

Officers defined.—The term "officers," whenever used in this Charter, shall include all persons holding any situation under the city govern-

ment or its departments, with an annual salary or for a definite term of office; and the term "fiscal officers," whenever used, shall include all persons engaged in any relation in the collection and disbursement of the city's money.

See note below.

Forfeiture of office for failure to pay over money.—Any failure on the part of any city officer to pay into the treasury of the city the balance reported by the Auditor to be due from him to the city, upon the adjustment of his account, shall cause a forfeiture of his office, and such balance shall bear interest at ten per centum per annum from the time it should have been accounted for until it shall have been paid into the treasury. The Mayor shall immediately order suit to be commenced in the proper court against the delinquent officer for such balance.

Oath: For ordinance see R. C., sec. 1675. Oath is also required by Charter, Art. XVI, sec. 13. As to necessity of oath and failure to take within the time limited see Beach on Pub. Corp., sec. 176.

Bonds, to be given by city officers and approved by Mayor and council: See Art. IV, sec. 4; R. C., secs. 1676-1684.

As to compelling approval of bond by mandamus, where there is no valid objection to the bond itself, see State ex rel. vs. Shannon, 133 Mo. 139, 165-167; State ex rel. vs. Wear, 37 Mo. App. 325.

Officers: Under the definition of officers in this section, a building inspector is not included: *Magner vs. St. Louis*, 179 Mo. 495, 503; State ex rel. vs. Longfellow, 95 Mo. App. 660.

See as to interpretation of a similar provision: *Weesner vs. Bank*, 106 Mo. App. 668.

A school director is a state officer, so as to confer jurisdiction on the Supreme Court to determine title to office: State ex inf. vs. Fasse, 189 Mo. 532. (See also as to school directors State ex rel. vs. Bus, 135 Mo. 325, and note to Charter, Art. XIII.)

So a Circuit Clerk: State ex rel. vs. Rombauer, 101 Mo. 499.

Board of Police and Metropolitan Police officers are state officers: State ex rel. vs. Commissioners, 184 Mo. l. c. 133 (Kansas City police), citing State ex rel. vs. Mason, 153 Mo. l. c. 43 (St. Louis police). See State ex rel. vs. Hawes, 177 Mo. 360; Marshall, J., dissenting in State ex rel. vs. Stobie, 92 Southw. 191, l. c. 220; s. c. 194 Mo. 14.

But the police are city officers as well as state officers; the dual capacity is expressly provided and is recognized as lawful: State ex rel. vs. St. Louis, 174 Mo. 125, 131, citing *Carrington vs. St. Louis*, 89 Mo. l. c. 214. See further State vs. Boyd, 108 Mo. App. 518, 524; State ex rel. vs. Stobie, 194 Mo. 14; R. S. 1899, sec. 6232, set out in "Laws Specially Applicable to St. Louis," sec. 451.

Mayor is city officer, not state: State ex rel. vs. Dillon, 87 Mo. 487.

Member of the Municipal Assembly is a city officer: State vs. Kelly, 103 Mo. App. 711.

Election Commissioner in St. Louis is a state officer in the sense that his functions are not limited to municipal elections; and that he is not within the prohibition against city officers contracting with the city: State ex rel. vs. Meier, 96 Mo. App. 160.

But he is not a state officer so as to confer jurisdiction on the Supreme Court of an appeal to a case where a state officer is a party: State ex rel. vs. Higgins, 144 Mo. 410.

So also of a Sheriff: State ex rel. vs. Bender, 91 Mo. 206; see State ex rel. vs. Bus, 135 Mo. l. c. 337 (holding a deputy sheriff not to be a state officer within the constitutional inhibition against a state officer holding office also in a city or county. See discussion by the court, as to when officers are state, county, or city officials).

Constable is state not city officer: State ex rel. vs. McKee, 69 Mo. 504.

After calling attention to the different provisions and phraseology of the constitutional references to officers the court in *State ex rel. vs. Bus*, 135 Mo. l. c. 337, says: "While the City of St. Louis is strictly a municipal corporation, its territory is also a subdivision of the state, in which officers are elected to perform the functions of the state government as distinguished from those pertaining to municipal government. Those officers are in no sense municipal officers," etc.

De facto officers: As to salary of such see note to Art. XVI, sec. 17. Where there is no office there can be no officer *de facto*: *Weesner vs. Bank*, 106 Mo. App. 668, 672; *State ex rel. vs. Finn*, 4 Mo. App. 347.

When a municipal legislative body may be such *de facto*: *Hilgert vs. Barber Co.*, 107 Mo. App. 385; see also *Adams vs. Lindell*, 5 Mo. App. 197, s. c. 72 Mo. 198; *St. Louis vs. Stoddard*, 15 Mo. App. 173, 177.

When appointment of one as officer will be implied, so far as the public are concerned: See note to R. C., sec. 1686.

Resignation: Under the constitution of this state any officer may resign at will: *State ex rel. vs. Bus*, 135 Mo. l. c. 331 (citing Const., Art. 14, sec. 5).

Liability of officers: A public officer charged with discretionary duties is not liable for negligent performance thereof, nor erroneous performance not actuated by willfulness or corruption: *Schooler vs. Arrington*, 106 Mo. App. 607, 609, citing a number of Missouri cases. See also as to liability of officer alleged to have done an act "in pursuance of an order of the city": *Quinn vs. Schneider*, 118 Mo. App. 39, 43.

But a superintendent of a workhouse, or jailer, although not actuated by malice, who keeps a prisoner beyond the time authorized by law and charter, by exercising a void power to extend the term as a matter of prison discipline, is liable for false imprisonment: *St. Louis vs. Karr*, 85 Mo. App. 608, 614 (distinguishing cases holding an officer to be protected for acting under a void commitment fair on its face).

And a Street Commissioner, who grades a street without the lawful authority of an ordinance (proceeding on simple resolution, which is void) is liable as for trespass, as well as the Mayor and aldermen who are present assisting and encouraging the work of such grading, to the owner abutting on the street: *Reed vs. Peck*, 163 Mo. 333.

A collector is not personally liable for collecting taxes under an irregular assessment, but he is where the property is wholly exempt from taxation; nor is he liable where he proceeds under a legislative act, the validity of which is afterwards assailed and overthrown as unconstitutional: *Walden vs. Dudley*, 49 Mo. l. c. 420-421, and cases cited. And even where the property is exempt, if such exemption is not absolute but conditional with a tribunal to review an assessment and determine the question, the collector has a right to suppose the unassailed decision of that tribunal to be correct: *Lee vs. Thomas*, 49 Mo. 112.

Penalty for favoring unauthorized claim by any officer, missapplication of funds, etc., see Chart., Art. XVI, sec. 11. The criminal liability of municipal officers, agents and servants, is discussed in a note on p. 273 of Mr. McQuillin's unofficial work "Amend. Chart.," and thirteen different ways of violation of law enumerated.

Loss of office is also discussed by that author on the same page, and the different ways in which this may be incurred are set out.

Sec. 44. Mayor to settle disputes between officers.—All questions of difference between the officers of the city affecting their relative powers and duties may be referred by either of them to the Mayor, who shall examine and determine such questions, and his decision shall be final as between such officers.

Sec. 45. Power of Assembly to create offices.—The Assembly shall have power, by ordinance passed by a vote of two-thirds of the members-elect of each house, to create any other office which it may deem necessary, and to provide for the manner of filling the same.

Assembly may create office: *St. Louis vs. Liessing*, 190 Mo. 464, 491; or assembly may transfer duties from one office to another, or abrogate the office altogether:

Chart., Art. III, sec. 32; or it may define the duties, and may change, increase or diminish same: Chart., Art. IV, sec. 28.

Sec. 46. Mayor to enforce contracts—officers to report violations of contract.—The Mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to this end he shall cause legal proceedings to be instituted and prosecuted against all persons or corporations failing to fulfill their agreements with the city. And it is the duty of every city officer, when it shall come to his knowledge that any contract with the city, relating to the business of any office, has been violated by the other contracting party, forthwith to report the fact to the Mayor.

As to city contracts and incidents connected therewith, see discussion in note to Charter, Art. XVI, sec. 7.

Sec. 47. Chiefs of Departments to report annually to the Mayor and quarterly to the Comptroller—books, papers, etc., to be opened to inspection by Members of Assembly, Mayor and Comptroller—Mayor to submit all reports to assembly.—The Chief of every department shall report annually to the Mayor, and as often as may be required by him, and quarterly to the Comptroller, a full itemized account of all the money received and paid out by or through said department, and their books, papers and everything connected with their offices, shall be open for examination and inspection by any member of either house of the Municipal Assembly, and the Mayor and Comptroller. All annual reports shall be submitted by the Mayor, with his message, to the Assembly.

For ordinances making provisions for reports from all fiscal officers and board, see R. C., sec. 2394; water rates collector: R. C., sec. 2461.

Sec. 48. Report of Comptroller.—The Comptroller shall, at the opening of each stated session of the Assembly, submit his report of the financial condition of the city and of the business in his office, and therewith the reports of all other fiscal officers. His report shall contain his estimates of the receipts and of the necessary appropriations to meet all the wants of the current year.

Report of Auditor.—The report of the Auditor shall comprise full and complete tables of facts in relation to the receipts and expenditures of the revenues since his last annual report, and an exhibit of the condition of the several general and special revenue accounts, individual funds and other accounts on his books, and their balances.

Report of Treasurer.—The Treasurer's report shall exhibit the amount of cash on hand at the date of the last annual report, the amount since received and paid out, respectively, on account of each class of funds, and what balance remains to the credit of each.

Report of Collector.—The Collector's report shall embrace all his collections since his last annual report from all the different sources, respectively, and the expenses of his office in detail.

Report of Marshal.—The Marshal's report shall state how much he has collected from fines, fees and penalties, respectively, of all kinds, and how much from all other sources, and how much he has paid into the treasury, and also the expenses he has incurred and charged, and which were either deducted from his collections, or paid out of the treasury, and on what account, in detail; also the amount of all uncollected bills of fines and fees.

Report of Board of Public Improvement.—The report of the Board of Public Improvements shall set forth, in detail, the condition of the public works of the city, under appropriate headings, and description of each contract, the names of the contractors, the authority for and amount appropriated to each piece of work or contract, the amount paid thereon prior to the last annual report, the amount since, and an estimate of what is necessary to complete the same; how much, for what purpose, and under what authority expenditures have been made without written contract approved by the Assembly, and all other things in their department of interest to the administration or the public.

Sec. 49. Commissioners on Charitable Institutions—their duties and powers—may remove officers of institutions.—The Commissioners on Charitable Institutions shall have a general visitorial supervision over all penal and charitable institutions supported wholly or in part by the city. They shall have power by an unanimous vote, to remove any appointed officer or employe of such institution, and shall, in case of such removal, notify the Mayor, and request him to fill the vacancy. The Mayor shall have no power to reappoint any person removed by the Commissioners.

For ordinances on Commissioners of Charitable Institutions see Rev. Code, secs. 1715-1727.

The Commissioners have no right to remove a superintendent of the institutions, except for cause, and after due notice, charges and specifications and an opportunity to be heard: *State ex rel. vs. Brown*, 57 Mo. App. 199 (upholding also an ordinance, now sec. 1720 of R. C.).

Sec. 50. Commissioners on Charitable Institutions to meet monthly at the City Hall and visit institutions monthly—may recommend ordinances to Assembly—shall receive no compensation.—The Commissioners shall meet at least once in each month at their office in the City Hall, and shall visit all the institutions under their supervision at least once in each month. They shall recommend to the Assembly such ordinances as they may deem necessary for the welfare of the persons under their supervision, and in the interest of the city. They shall receive no pay for their services.

For ordinances see Rev. Code, secs. 1715-1727.

ARTICLE V.

REVENUE AND TAXATION.

SECTION.

1. Municipal Assembly to levy and collect all taxes; rate of taxes in old and new limits.
2. Assembly may increase tax rate in extended limits.
3. Enforcement of taxes.
4. Licenses, wharfages and other dues.
5. Blank licenses, tickets., etc., how issued.
6. Classification of taxes, etc.
7. Payments into city treasury.
8. Settlements of fiscal officers.

APPROPRIATIONS.

9. Appropriations.
10. Limitation of appropriations.
11. Payments out of city treasury.
12. All ordinances authorizing disbursements to be indorsed by Comptroller.
13. Unadjusted accounts, how certified, etc.
14. All expenditures, etc., must be by ordinance.

ASSESSMENT OF PROPERTY.

15. Board of Assessors; Assembly to establish assessment districts.
16. Official bonds of assessors; duties of district assessors; when assessments shall commence and end, etc.
17. Qualifications of assessors.
18. Duties of President of Board of Assessors; shall be accountable for all plats, books, etc., belonging to office; may appoint clerks and deputies;

SECTION.

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19. Assessment books, how made up.
20. Public notice to be given of completion of books.
21. Duty of Recorder of Deeds in reference to conveyances.
22. Property not laid off into blocks, etc., to be assessed as agricultural lands.
23. Costs of assessments, how paid.

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24. Its organization and duties.
25. Record of proceedings.
26. Abstract of corrected assessments to be sent to Mayor and State Auditor; State, school and city tax-bills, how prepared; duty of Comptroller in reference to tax-bills and assessment books.
27. Ordinance fixing percentage of taxes.
28. Comptroller to correct manifest errors in assessments.
29. Authority of Comptroller as to delinquent taxes, etc.

COLLECTION OF TAXES.

30. Bond of City Collector.
31. Collector to collect all revenues except water rates.
32. Rebate on tax-bills.
33. Authority of Collector to appoint deputies.
34. City Collector to perform all duties discharged by County Collector.

Section 1. Municipal Assembly to levy and collect taxes—rates for various purposes specified—rates for erecting public buildings, how increased—revenue for erecting public buildings.—For the support of the government of the city, the improvement thereof, and the payment of the public debt, the Municipal Assembly shall, by ordinance, annually levy, assess and collect taxes on all subjects and objects of taxation, and on all property within the city made taxable by law for State purposes; and establish the rate thereof, as follows, to-wit: For municipal purposes a sum not exceeding the maximum authorized by the Constitution of the State, or any amendment thereof; for the payment of the valid indebtedness of the city existing on the seventh day of April, eighteen hundred and ninety, and for the bonds issued in renewal thereof, a percentum sufficient, at least, to meet the requirements of Section two, Article fourteen of this Charter; for the payment of indebtedness which may have been incurred thereafter or may be incurred hereafter, a percentum sufficient at least to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for payment of the principal thereof within twenty years from the time of contracting the same, or within such other period as may be permitted by the Constitution of this State in force at the time any such indebtedness is contracted, unless said interest and sinking fund are hereinafter, or hereafter, otherwise provided for; provided, however, that the rates of taxation for the payment of the indebtedness existing on the seventh day of April, eighteen hundred and ninety, as

aforesaid, and for the payment of each separate indebtedness thereafter, shall be separately established; and provided further, that for the purpose of erecting public buildings, the rate of taxation for municipal purposes as herein limited, may be increased by the Municipal Assembly, when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of the city, voting at an election to be held for that purpose, shall vote therefor. The taxes collected for the purpose of erecting public buildings shall be designated "revenue for erecting public buildings," and shall be kept distinct from other revenues and used for the purpose designated in the submission of the question of increasing the rate, as aforesaid, to a vote of the people, any other provision in this Charter as to designation or application of the fund to the contrary notwithstanding.

The Municipal Assembly shall also be empowered to levy, assess and collect all taxes, of every description, on any or all of the subjects or objects of taxation which are authorized to be levied by the municipality under the constitution and laws of this State.

Amendment: This section is an amendment adopted at the election on October 22, 1901, submitted under ordinance 20444. The divergence from the old provision is set out in McQuill. (unofficial) work Amend. Chart., in a note on p. 280.

Powers of taxation: General power to levy and collect taxes, borrow and appropriate money: See Charter, Art. III, sec. 26, clause 1.

For provisions and discussion concerning the city's power to license, tax and regulate occupations, vehicles and other subjects and objects of license, see note to Charter, Art. III, sec. 26, clause 5, where that subject is separately treated; and ordinances as to license collector see R. C., Chap. 30, and notes thereto.

Under the Constitution the taxing power must be exercised by municipal corporations for county or corporate purposes, be uniform, in proportion to value, etc. See Const., Art. X, secs. 1 to 4, etc. (See 195 Mo. 228; 76 Mo. 431; 89 Mo. 631, and 49 Mo. 512.)

As to the limit of municipal indebtedness of St. Louis under the last amendment to the Constitution see note to clause 1 of sec. 26 of Art. III of the Charter.

The assessment and collection of the revenue and taxes in the City of St. Louis is governed largely by the State laws (R. S. 1899, secs. 9118-9400 inclusive) and those provisions thereof which are specially applicable to St. Louis are set out hereinbefore with notes, under "Laws Specially Applicable to St. Louis," Chapter 26, secs. 468-496. See Art. 1 (secs. 468-470) for assessment; Art. 2 (secs. 471-482) the Collector; Art. 3 (secs. 483-487) settlements of collector; Art. 4, (secs. 488-492) delinquent and back taxes; Art. 5 (secs. 493-494) assessment and taxation of railroads; Art. 6 (secs. 495-496) taxation of merchants and manufactures. These provisions should be consulted in connection with the charter provisions. The ordinance provisions covering the revenue department are found in Rev. Code, Chap. 30-32, secs. 2070 *et seq.*; see as to board of assessors, secs. 2070-2098; board of equalization, secs. 2099-2102; of taxes, sec. 2103.

Special taxation for local improvements is not included in general taxation, and is discussed in notes to Art. VI of the Charter.

If the State can tax for state purposes it can confer upon one of its municipalities the power to tax for local purposes: *Henderson Co. vs. Henderson*, 173 U. S. loc. cit. 614; for "a municipality without the power of taxation would be a body without life, incapable of acting and serving no useful purpose": *U. S. vs. New Orleans*, 98 U. S. 381, 393; and hence when the power to contract a debt by bond is given the power to levy taxes to pay same goes with it, unless there is an express limitation which repels the inference: *Id.* pp. 393-394 (allowing mandamus against the city to pay judgments on bonds); and a lawful issue of bonds is not only binding upon the municipality, but even the power of the State itself to alter or destroy its municipal corporations or change the boundaries thereof, cannot be so exercised as to impair the obligation of such bonds, and if such be done, the proper officers of the old municipality may be compelled by mandamus to make an assessment and levy of taxes for their payment: *Graham vs. Folsom*, 200 U. S. 248.

The Constitution of Missouri, sec. 23, of Art. IX, distinctly recognizes the right of the City of St. Louis to make provision in its Charter for levying and collecting city taxes for the maintenance of the city government; the city was empowered to make provision in its charter for the levy of taxes by its municipal assembly upon such subjects and in such manner as would not be in controvention of the Constitution and laws of the state, nor does the city derive its powers to levy taxes from legislative grant, not being included in those affected by Const., Art. X, sec. 1: *St. Louis vs. Bircher*, 76 Mo. 431, 433.

"The power to tax is explicitly given in the Charter adopted in pursuance of the constitutional provisions; in view of those provisions there can be no doubt that it was the intent of the framers of the Constitution that the Charter to be framed by the Board of Freeholders for the City of St. Louis, should contain such provisions in regard to taxation as should be found by them expedient, and violate no constitutional provision. To hold otherwise would be to hold that the framers of the Constitution offered to St. Louis a Charter under which she could have no revenue, and consequently no police, no waterworks, no street lighting or paving, no means of subsistence and no life": *St. Louis vs. Sternberg*, 4 Mo. App. l. c. 457 (affirmed s. c. 69 Mo. 289).

"As the city government, authorized by the Constitution for the City of St. Louis, is entirely different in its organization from that of the counties, and as the duty of collecting the State revenue which devolved upon the County of St. Louis under the general law, was thereafter to be performed by the city, it became necessary to provide in the Charter the requisite municipal agencies for the performance of that duty. Proper officers were to be designated, the mode of their selection prescribed, and the duties which were previously performed by the officials designated in the general law were, by express enactment, to be imposed on them," etc.: *State ex rel. vs. Powers*, 68 Mo. 320, 324. See as to transfer of old county functions to city officials on the separation of city and county, note introductory to Charter, "General Considerations," etc.

Under the Charter and State laws annual assessments of real estate in St. Louis are lawful: *State ex rel. vs. Powers*, 68 Mo. 320.

The power of taxation by municipalities is amongst the most valuable and important of the public trusts and powers conferred upon municipal corporations, without the exercise of which municipal government would cease to exist; and a contract by a city not to exercise the same, or attempting to limit the exercise thereof by exemption or commutation of taxes, is void, and of no effect: *State vs. Railroad*, 75 Mo. 208, 210, applied also in *Springfield vs. Smith*, 138 Mo. l. c. 655; an attempted exemption from either general or special taxation is void: *Vrana vs. St. Louis*, 164 Mo. 146, 152.

There being (at that time) a direct conflict between the Charter of St. Louis and the general State law, so far as they relate to the method of *extending* the taxes levied upon railroad property and the subsequent proceedings for collecting the same, it was held that the State law supersedes the Charter in that respect: *State ex rel. vs. Railway*, 117 Mo. 1, 11-12. (As to assessment and taxation of railroads see "Laws Spec. Applic. to St. L.," hereinbefore, Chap. 26, Art. 5.)

Personal property of a non-resident is taxable here if it be found within the local jurisdiction regardless of whose hands it may happen to be in: *Curtis vs. Wood*, 58 Mo. 295; and see *Lionberger vs. Rowse*, 43 Mo. 67; *Bank vs. Meredith*, 44 Mo. 500. But personal property is to be assessed where owner resides, etc.: *Rev. St. 1899*, sec. 9121.

The legislature cannot authorize a municipal corporation to tax, for its own local purposes, lands lying beyond the corporate limits: *Wells vs. Weston*, 22 Mo. 384. (But as to issuing bonds for street railway running out of the limits see *Henderson vs. Jackson Co.*, 12 Fed. (C. C.) 676; and the city may issue bonds on bridge over Mississippi: *Haeussler vs. St. Louis* (Sup. Ct. in banc July 2, 1907, not yet reported.) As to what is within the limits where the boundary is a river see extended discussion in *Henderson Bridge Co. vs. Henderson* (a Kentucky river case) 173 U. S. 592, to be interpreted in connection with our laws as to the boundary (see note to Art. 1, sec. 2) and see *State ex rel. vs. Longfellow*, 169 U. S. 109; *Haeussler vs. St. Louis* (bonds for free bridge across Mississippi, Supt. Ct. in banc, July 2, 1907, not as yet reported).

The State has a right to increase the boundaries of St. Louis without consent of property holders who are thereby brought within its limits, and are thereafter required to pay city taxes: *Russell vs. St. Louis*, 9 Mo. 503; see also *Benoist vs. St. Louis*, 19 Mo. loc. cit. 184.

Public property of the city is by the Constitution exempt from taxation (Art. X, sec. 6) but this does not apply to property held by the city as trustee of a charitable bequest for the benefit of a particular class; in such case the tax should be assessed against the city as trustee: *St. Louis vs. Wenneker*, 145 Mo. 230, 239 (Mullanphy Emigrant Fund: See note to Rev. Code, Chapter 19, sec. 1654, *et seq.*)

Neither does constitutional nor statutory exemption from taxes apply to special taxation for local improvements, as to which see notes to Charter, Art. VI, sec. 14, etc.

In holding void sec. 11a of Art. X of the State Constitution, as in conflict with the 14th amendment of the U. S. Const., the court said in *State ex rel. vs. Ry.*, 195 Mo. 1. c. 241-242: "If the constitutional [State] amendment only excepted the City of St. Louis, a very different question would also have been presented for adjudication, for the City of St. Louis is a political subdivision of the State as much as any county and is treated as a county, and any law that is passed applicable thereto applies to all persons within its territorial limits; and taxes which are imposed on property in the City of St. Louis are necessarily uniform because they subject the same class of subjects, within the territorial limits of the city, to the tax. In fact the laws relating to taxation in St. Louis have for many years been different from the laws applicable to other parts of the State."

Under the Charter of 1841 there might be different levies or rates of taxes in the same year, provided the aggregate did not exceed the Charter limit, and the council might levy taxes either for the fiscal or calendar year: *Benoist vs. St. Louis*, 19 Mo. 179.

*Sec. 2.

Sec. 3. Enforcement of taxes.—The payment of all taxes for the city shall be enforced in the same manner and under the same rules and regulations as may be provided by law for collecting and enforcing the payment of State taxes.

For authorities relating to bringing and defending of suits for taxes, and matters connected therewith, see note to sec. 491 of "Laws Specially Applicable to St. Louis," *ante* p. 189-190.

Sec. 4. Licenses, wharfages and other dues.—The Assembly shall also provide by ordinance for the levy and collection of all other taxes, licenses, wharfages, and other dues of every description, and to fix the penalties for neglect or refusal to pay the same according to law and ordinance.

Sec. 5. Blank licenses—tickets, etc.—how issued.—All blank licenses, tickets, receipts, permits, certificates or other blank forms which are intended to facilitate or simplify the collection of the revenue, shall be issued by the Register under the seal of the city, and delivered and charged to the Comptroller, who shall countersign and deliver them to the proper officers respectively and take duplicate receipts therefor, one of which shall be filed with the Auditor.

Same as ordinance: R. C., sec. 2063.

Sec. 6. Classification of taxes.—All taxes collected for municipal purposes, from all sources whatever, shall be designated "Municipal Revenue," and the taxes collected for the payment of the public debt shall be designated "Interest and Public Debt Revenue," and the latter shall always be kept distinct from other revenues and held sacred for the payment of interest and the valid indebtedness of the City of St. Louis existing on the seventh day of April, eighteen hundred and ninety, and the indebt-

edness of the city which may have been incurred thereafter or may be incurred hereafter, and the bonds issued in renewal thereof, and for no other purpose whatever.

Present amendment adopted at election on Oct. 22, 1901 (ord. 20444).

Sec. 7. Payments into city treasury.—All collections of public money on account of the city shall be paid into the city treasury and triplicate receipts taken therefor, showing from what source the money is derived and the account to which it is placed, one of which shall be filed with the Auditor, and one with the Comptroller.

Sec. 8. Settlement of fiscal officers.—The settlement of all officers engaged in collection of the revenue, shall be adjusted by the Comptroller, and by him certified to the Auditor, at least monthly, and oftener if required by the Mayor, and all blanks not used shall be returned by the Comptroller to the Register for cancellation.

APPROPRIATIONS.

Sec. 9. Appropriations.—The appropriations of the Municipal Assembly for the payment of interest, for the payment of the public debt, for public improvements, and for the support of the city government during any one fiscal year, shall be in conformity with the requirements of the constitution of the State.

Constitutional limit of municipal indebtedness, see note to Art. III, sec. 26, clause 1; Const., Art. IX, sec. 19 and Art. X, sec. 12.

Sec. 10. Limitation of appropriations.—No appropriation shall be made from any revenue fund in excess of the amount standing to the credit of such fund; nor shall it be made for the purposes to which the money therein is not applicable by law.

See sec. 12 *infra*.

Duty of Comptroller to see that no improper expenditure incurred, and that appropriations are not overdrawn: Charter, Art. IV, sec. 20; Rev. C., sec. 2427. Similar duties of Auditor, and warrant to specify appropriation out of which payable: Rev. Code, sec. 2411, 2410, 2419; Charter, Art. IV, sec. 21.

As to effect of contracts where the appropriation is less than the contract price see note to Art. XVI, sec. 7; also, as to improvements, note to Art. VI, sec. 28.

Sec. 11. Payments out of city treasury.—No money shall be paid out of the treasury except on the Auditor's warrant, and no warrant shall be issued on any appropriation, unless there is an unexpended balance to the credit thereof sufficient to cover such warrant, and money in the treasury to pay it.

See Rev. Code, sec. 2410.

Sec. 12. All ordinances authorizing disbursements to be indorsed by Comptroller.—All ordinances that contemplate the payment of any money shall, upon their second reading, be referred to the appropriate committee who shall obtain the indorsement of the Comptroller thereon to the effect that sufficient unappropriated means stands to the credit of the fund therein named, to meet the requirements of said ordinance, or it shall not be lawful to recommend its passage, or pass the same: *Provided*, that no claim shall be paid without the approval of the Auditor.

See as to wisdom of provisions such as these, the remarks of Marshall, J., in *Pryor vs. Kansas City*, 153 Mo. 151 *et seq.*

REVENUE AND TAXATION.

Sec. 13. Unadjusted accounts—how certified, etc.—All unadjusted accounts, before they are audited, must be certified to by the officer having knowledge of the facts, and the Auditor and Comptroller may allow them, or in case of their disagreement, then by either of them and the Mayor; and all accounts thus allowed shall be paid as directed in this article. All audited accounts shall be registered in the Comptroller's office, and filed and preserved as vouchers in the Auditor's office.

Rev. Code, sec. 2410.

Sec. 14. All expenditures, etc., must be by ordinance.—No money shall be expended, nor shall any improvement be ordered involving an expenditure of money, except by ordinance, the provisions of which shall be specific and definite.

Section cited: *St. Louis vs. Lang*, 131 Mo. loc. cit. 420; *Silvester vs. St. Louis* 164 Mo. l. c. 609.

As to appropriations for public work or improvements, see Charter, Art. VI, sec. 28, and note thereto.

A mere auditing officer cannot be mandamusd where there is no appropriation: *State ex rel. vs. Brown*, 141 Mo. 26.

But as to no technical appropriation by the municipal assembly being required where the police board sends in its estimate, see *State ex rel. vs. Mason*, 153 Mo. 23, and references in note to Charter, Art. XVI, sec. 16.

ASSESSMENT OF PROPERTY.

Sec. 15. Board of Assessors—Assembly to establish assessment districts.—The City of St. Louis shall be assessed, in accordance with the general laws, by a Board of Assessors, consisting of a President of the Board, to be elected by the qualified voters of the city, and one Assessor from each assessment district, who shall be appointed by the Mayor, and confirmed by the Council and the Municipal Assembly, shall lay off the city into convenient assessment districts, and shall have power to alter and change the same, as necessity or convenience may require.

See Rev. Code, secs. 2070, 2084. By sec. 8 of the Scheme the office of President of the Board of Assessors is declared a city office and placed under the control of the City government.

Sec. 16. Official bonds of Assessors.—The President of the Board, and each of the district assessors, before entering upon their official duties, shall give bond and security to the State, to the satisfaction of the Mayor, with three or more solvent securities, freeholders of the city, the said President in a sum not less than twenty thousand dollars, and the said district assessors, each, in a sum not less than two thousand dollars, the amount to be fixed by ordinance, conditioned for the faithful performance of the duties of their office, which bonds shall be executed in duplicate, one of which shall be forwarded to the State Auditor, and the other be deposited with the Register of the City of St. Louis.

See note below.

Duties of Assessors—reports.—It shall be the duty of the district assessors to assess the property within the districts for which they were appointed, under the direction and superintendence of the President, in the

manner provided by law. They shall commence their assessment on the first day of June in each year, and complete the same, and make their final report to the President, on or before the first Monday in January following. Each report shall be verified by the affidavit thereto of the assessor making it, that he made the assessment contained in his report impartially and correctly to the best of his ability and judgment, and uninfluenced by fear of, or favor by, or toward any one.

Act March 24, 1881 (Laws 1881, p. 178) fixes the dates.

Duties, etc.: Ordinance: R. C., sec. 2083. As to bonds, etc., see R. C., sec. 2071. See also note to sec. 18 infra of this article.

Sec. 17. Qualifications of Assessors.—The President of the Board of Assessors shall be of the age of at least thirty years, and have been a resident within the city for at least seven years next before his qualification; and each district assessor shall have been a resident within the city for at least five years next before his qualification, or competent for his duties from actual service as an assessor of real estate in the City of St. Louis for taxation.

Ordinance: Rev. Code, sec. 2072. The original provisions also required the assessors to be freeholders but was superseded by the State law (R. S. 1899, sec. 5259) and that portion is therefore omitted.

Sec. 18. Duties of the President of the Board of Assessors—shall be accountable for all plats, books, etc., belonging to the office—may appoint clerks and deputies—personal attendance in office required.—It shall be the duty of the President of the Board to superintend the work of the district assessors, and the assessment of the entire city, to see that they faithfully discharge their duty, and, as far as possible, make the assessment uniform and equal throughout the city. He shall take the entire charge of the Assessor's office, and all maps, plats, books, papers and furniture, etc., belonging to the said office. He shall be accountable for all such plats, and shall not permit any one of them, under any pretence whatever, to be removed from the office except those which may be required by the district assessors for the assessment of their allotted districts. He shall use all proper care and diligence to preserve all maps, plats, books and papers belonging to the office from injury, and shall hold the district assessors responsible for the return, in good condition, of all plats that may be furnished to them. He shall alter and correct the office plats, and all plats used by the district assessors, as required by law. He shall furnish the district assessors with all plats, blanks, stationery, instructions, and all information that may be needed by them for the proper assessment of their respective districts. He shall receive the return of property of those upon whom the district assessors have ordered notice, except in those cases where the district assessors make personal service, and shall administer the oath required by law. He may appoint one or more of the clerks in his office as deputies, and he or they shall be authorized to administer the oath. He shall furnish paper, blanks, and all necessary information to persons desiring to make appeal from the assessment of the district assessors. He shall, in person, be at his office every working day, during office hours, except when engaged in his duties as Assessor, or absent on leave, and shall furnish information on all matters pertaining to the assessment of property.

See in connection herewith R. S. 1899, sec. 9169, set out hereinbefore under "Laws Specially Applicable to St. Louis," Chap. 26, sec. 468. For ordinances see R. C., 2070-2098; deputies, sec. 2073.

The action of the assessor in assessing the property of owners is quasi-judicial, and when his jurisdiction attaches by the due service of notice and blanks, his valuation and assessment made where the property owner fails so to do, is, unless appealed from, conclusive upon the taxpayer; and that the valuation is of a lump sum, not itemized, is at most a mere irregularity of which the taxpayer, when sued, cannot complain: *State ex rel. vs. Cummings*, 151 Mo. 49, 60. See also *State ex rel. vs. Seahorn*, 139 Mo. 582; *State ex rel. vs. Hoyt*, 123 Mo. 348. But the assessor cannot raise the return made by the taxpayer, without notice: *State ex rel. vs. Spencer*, 114 Mo. 574.

By Charter, Art. V, sec. 28, the Comptroller has a right to correct manifest errors in assessments.

Sec. 19. Assessment books, how made up.—When the district assessors shall have completed their assessments, said President of the Board shall make up the assessment books in proper alphabetical order, from the plats and returns made by said district assessors, from the return of property holders to the Assessor's office, and from the best information he can otherwise obtain, so that said assessment books shall be as nearly as possible a full and complete assessment of all taxable property in the city, the same to be completed on or before the third Monday in March of each year.

Cited in *Heman Const. Co. vs. Loevy*, 179 Mo. loc. cit. 468-469.

Sec. 20. Public notice to be given of completion of books.—As soon as said books are completed, the President of the Board shall give one week's published notice in the daily newspapers,—one of which shall be printed in German,—that said books are open for inspection, and stating the time when the Board of Equalization will be in session.

Rev. Code, sec. 2096.

Sec. 21. Duty of Recorder of Deeds in reference to conveyances.—The Recorder of Deeds of the City of St. Louis is hereby required to deliver to the President of the Board of Assessors, from day to day, when required of him, and the day after the same shall have been recorded and compared, all deeds and other instruments in writing, filed in his office, by which any change of ownership is made in any of the real estate of the City of St. Louis, and the President of the Board shall, without unnecessary delay, make such changes upon the plats in his office as said deeds and other instruments may require, and forthwith return such deeds and other instruments to said Recorder.

Ordinance to same effect: *R. C.*, sec. 2097. See other ordinances affecting Recorder: *R. C.*, Chap. 27, secs. 2047-2052; also sec. 1944. Duties to record plats, *Chart.*, Art. VI, sec. 1.

SEC. 22.

This section was repealed at the charter amendment election of Oct. 22, 1901 (submitted by ord. 20444) and is omitted from the text. The section provided that the assessment of lands in the city, which had not been laid off into blocks or lots, should be assessed by the acre as agricultural lands until laid off into blocks and lots by the owners. Before its repeal the same had been declared void as unconstitutional (conflicting with sec. 4, Art. X, requiring all property to be taxed according to its value): *State ex rel. vs. O'Brien*, 89 Mo. 631.

A similar section had long before been held not to require the value for taxation purposes to be fixed by its agricultural value only: *Benoist vs. St. Louis*, 15 Mo. 668.

Sec. 23. Costs of assessment, how paid.—All the costs and expenses of the assessment shall be allowed and paid by the City of St. Louis,

in the same manner as other demands against the city are allowed and paid, and when the aggregate for each year's assessment shall have been ascertained, the Auditor of St. Louis shall certify the same to the State Auditor, whose duty it shall be to draw his warrant in favor of the City of St. Louis for one-half of said assessment, as provided by law.

Rev. Code, sec. 2098.

BOARD OF EQUALIZATION.

Sec. 24. Organization and duties.—There shall be a Board of Equalization, consisting of the President of the Board of Assessors, who shall be President thereof, and four discreet and experienced real estate owners of the City of St. Louis, of a prior residence therein of ten years, who shall be appointed by the Judges of the Circuit Court of the Eighth Judicial Circuit, on the second Monday of March annually. The duty of said Board shall be to adjust, correct and equalize the valuation of real estate and personal property in said city. It shall meet on the third Monday in March annually, and shall remain in session for four weeks, if business requires it, and no longer. Said Board shall hear and determine all appeals in a summary manner, shall adjust and correct the assessment books accordingly, shall determine as far as possible whether the property has been assessed at the true cash value, and in just proportion to the assessed value of the other property in the city similarly situated, and to this end shall increase or diminish the assessment on any property, real or personal, or mixed. If they propose to increase the assessment in any case, they shall cause notice thereof to be served upon the owner, agent or representative thereof, if within the city, who shall have the right to be heard upon such proposed increase. The said Board shall have power to send for persons or papers, and to compel the attendance of witnesses, and to this end the Sheriff of the city shall execute such process as may be issued by it. The majority of said Board shall constitute a quorum, and a majority of those present shall determine all matters of appeal or revision, or correction of values. The compensation of the members of the Board shall be fixed by ordinance, but the President shall receive no compensation as such member. The members of such Board, before entering upon the duties of their office, shall take and subscribe an oath similar to that required of County Boards of Equalization.

Ordinances on Board of Equalization, R. C., secs. 2099-2102. Assessments must be corrected by appeal. If the assessed owner does not appeal to the board of equalization as provided by law, he will not be heard to dispute the assessment of the assessor, which then is conclusive, if the property is taxable under any law: *State ex rel. vs. Tobacco Co.*, 140 Mo. 218. The right to appeal is equivalent to "a day in court": *State ex rel. vs. Cummings*, 151 Mo. 1. c. 59 (holding failure to make an itemized list of property at best only an irregularity); see on same point *State ex rel. vs. Seahorn*, 139 Mo. 1. c. 609-610.

A board of equalization being a tribunal of special and limited powers, acts outside of its jurisdiction are void; but in the performance of its duties it acts judicially and its orders cannot be collaterally impeached except for fraud: *State ex rel. vs. Vaile*, 122 Mo. 33; *St. Louis Mut. vs. Charles*, 47 Mo. 462.

The action of the board of appeals is judicial and hence certiorari is the proper mode of reviewing its acts: *State ex rel. vs. Dowling*, 50 Mo. 134; but only matters on the face of its record can be reviewed: *Ward vs. Board*, 135 Mo. 309.

Sec. 25. Record of Proceedings.—Said Board shall keep a complete record of all its proceedings, and deliver the same to the said President to be kept as a record in his office.

Sec. 26. Abstract of corrected assessments to be sent to Mayor and State Auditor—State, school and city tax bills, how prepared—duty of Comptroller in reference to tax bills and assessment books.—After the assessment books have been corrected, the President of the Board shall make out a fair copy of the same, and shall make an abstract of said books, showing the amount of the several kinds of property assessed, and specifying the amount of value of all property within the present boundary line of the city, the amount of value of all property in the extended limits, and the aggregate valuation of all property within the city limits as established by this Charter, and add thereto his certificate that the same contains a true and correct list of all taxable property of the City of St. Louis so far as he has been able to ascertain the same. One copy of the abstract, verified by his oath, shall be delivered on or before the fourth Monday in May to the Mayor of St. Louis, and another copy to the State Auditor. He shall add upon the assessment books the State and school taxes required by law to be levied, and also add in accordance with a certified copy of an ordinance from the Municipal Assembly, all municipal taxes set forth in said ordinance, and shall then cause to be made out tax bills against the persons assessed, setting forth in said bills the name of the person, the description of the property, and the several taxes thereon, the name of the owner, lessee or agent of the property assessed, and their number or place of residence or business, and such other information as may facilitate the collection of such tax bills. He shall deliver said bills, with an abstract of the same and with a copy of the assessment books, to the Comptroller, who shall compare said bills with the abstract, test the footings thereof, and then shall officially stamp said bills and deliver the same with the abstract to the Collector and take his separate receipts therefor, First, for the aggregate of said bills; Second, for the amount of the State taxes; which last receipt the said Comptroller shall transmit to the State Auditor.

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Section cited: *Heman Const. vs. Loevy*, 179 Mo. 1. c. 469.

See State law, R. S. 1899, sec. 9169 (set out hereinbefore under Laws Applicable Specially to St. L., Ch. 26, sec. 468) as to duty of President of the board of assessors respecting plats and changes of assessments to owners, each year.

School taxes are fixed by the Board of Education; as to remission of same where an excess remains see Charter, Art. XIII, sec. 5.

Sec. 27. Percentage of taxes fixed by ordinance.—On or before the fourth Monday in May in each year, the Municipal Assembly shall cause to be delivered to the President of the Board of Assessors a certified ordinance establishing the percentage of taxes for the current year, and failing so to do, the rates last previously established shall be the percentage of taxes for the current year.

See R. C., sec. 2103. This charter provision (sec. 27) is an amendment adopted at the charter election of Oct. 22, 1901, submitted by ordinance 20444.

The rate for school taxes is fixed by the Board of Education: Charter, Art. XIII, sec. 4.

Sec. 28. Comptroller to correct manifest errors in assessments.—The City Comptroller is authorized and empowered to hear and determine all allegations of manifest errors in the assessment of lands and personal property for taxes, and in all cases when it shall appear that lands or personal property have been erroneously taxed, the said Comptroller

shall cause the same to be corrected on the assessment books, and shall certify to the State Auditor all such corrections to be credited to the Collector.

Amendment adopted at election Oct. 22, 1901. The city assembly is prohibited from relieving any citizen from payment of any tax or exempt him from any burden, etc. See Charter, Art. III, sec. 30; and from making any appropriations for charitable purposes, etc.: *ib.* sec. 33.

Sec. 29. Authority of Comptroller as to delinquent taxes, etc.—And the said Comptroller is further authorized and empowered to discharge all the duties, and perform all the acts within the city limits, in regard to the "land delinquent list," the "sale of land for taxes," and all other matters relating to the assessment books and tax-bills, that are imposed on the County Court in the General Law.

COLLECTION OF TAXES.

Sec. 30. Bond of City Collector.—The Collector of the City of St. Louis, before entering upon the discharge of the duties of his office, shall give bond and security to the State, to the satisfaction of the Mayor, in a sum provided by law and ordinance, conditioned that he will faithfully and punctually collect and pay over all State, school, municipal and other revenues, during the time he shall be in office, and that he will in all things faithfully perform all the duties of the office of Collector according to law. The official bond required in this section shall be signed by at least five solvent securities, freeholders within the city, and be executed in duplicate, one of which shall be deposited with the Register, and the other transmitted by the Register to the State Auditor, who shall carefully examine the same, and if it appears to his satisfaction that the bond is insufficient, he and the Mayor shall require such Collector to give additional bond, and if he fail to give such additional bond within ten days after he shall have been notified, his office shall be declared vacant. Said bond, when approved and recorded, shall be a lien against the real estate of such Collector until he shall have complied with the conditions thereof. If the Collector shall neglect or refuse to give such bond for fifteen days after his election, his office shall be declared vacant, and an election shall be ordered to fill the vacancy.

See also State law: R. S. 1899, secs. 9206-9215. (See same under "Laws Spec. Appl. to St. L.," Ch. 26, Art. 2, secs. 471-480.)

By sec. R. S. 9210 (Laws, etc., sec. 475 with note) the bond is a lien on the realty owned by the collector.

Sec. 31. Collector to collect all revenues except water rates.—The Collector shall collect all revenues derived from all other sources, which may be levied by law or ordinance within the City of St. Louis, except water rates, and keep a detailed account of all his collections, from all the different sources of revenue and taxation, respectively. All collections made belonging to the city shall be paid into the city treasury daily, and triplicate receipts taken therefor, showing from what the money proceeds, and the account to which it is placed, one of which shall be filed with the Auditor, and one with the Comptroller.

See ordinance R. C., sec. 2290. The duty cast on the Collector to collect licenses was by state law transferred to a "license collector" created by that act; and the issuance of dramshop licenses was by statute conferred on the Excise Commissioner: See note on these points and references to these statutes in note to

Charter, Art. IV, sec. 24. To that extent the duties of the collector were modified.

Commissions of Collector for collecting revenue see State law, R. S. 1899, sec. 9260 (set out under "Laws, Spec. Applicable to St. Louis," Ch. 26, Art. 3, sec. 486).

Sec. 32. Rebate on tax bills.—On all tax bills for real and personal property, on the assessment books, which shall be paid to the Collector, on or before the first day of October in each year, allowance or rebate shall be made on the city taxes on said bill, to the person or persons making such payments, at the rate of eight per centum per annum from the date of such payment to the 31st of December following, and the amount of such allowance or rebate shall be credited to the account of the Collector, and charged to the respective revenue accounts.

Ordinance on tax rebate, Rev. C., sec. 2291.

Sec. 33. Authority of Collector to appoint deputies.—The Collector may appoint deputies, by an instrument in writing, duly signed, and may also revoke any such appointment at pleasure, and may require bonds or other securities, from such deputies to secure himself; and each such deputy shall have like authority in every respect to collect the taxes levied or assessed within the city or any part thereof which by law is vested in the Collector himself; but the Collector shall, in every respect, be responsible to the State, city, individuals, companies and corporations, as the case may be, for all moneys collected, and for every act done by any of his deputies whilst acting as such, and for any omission of duty by such deputy. Any bond or security taken from a deputy by the Collector shall be available to such Collector, his representatives and securities, to indemnify them for any loss or damage arising from any act of such deputy.

State statute on collector's right to deputies: R. S. 1899, sec. 9217 (see same in "Laws Sp. Appl. to St. L.," sec. 482).

For ordinance see R. C., secs. 2292, 2295.

In an action on tax bill, the bill cannot be excluded because signed by deputy: State ex rel. vs. Miller, 16 Mo. App. 539.

Sec. 34. City Collector to perform all duties discharged by County Collector.—The said Collector is authorized, empowered and directed to discharge all the duties and perform all the acts in relation to the collection of the revenue, within the city limits, that the County Collector is now required and authorized by law to do.

ARTICLE VI.

PUBLIC IMPROVEMENTS—CONDEMNATION PROCEEDINGS—STREET OPENINGS—
CONSTRUCTIONS OF STREETS, BOULEVARDS, ALLEYS, ETC., AND SEWERS—
SPECIAL TAXATION—CONTRACTS FOR PUBLIC WORK—
STREET SPRINKLING.

SECTION

1. Streets to be established—lots, etc., to conform to established streets—map or plat of new blocks, lots, etc., to bear certificate of responsible surveyor, to be approved by B. P. I. and refer to established landmark, otherwise cannot be recorded—dedication to public use of streets, alleys and public places—limitations respecting heavy hauling and business traffic allowed on certain conditions—private places—boulevards may be established on stated conditions, or discontinued.

CONDEMNATION PROCEEDINGS.

2. Form of petition—commissioners to assess damages—parties defendant.
3. Notice to defendants—process to be served by city marshal—notice by publication.
4. Court shall appoint three freeholders as commissioners, to assess damages; qualifications—majority may act and report.
5. Duty of commissioners as to damages and benefits—assessments of benefits to be a lien against property—opening of alleys.
6. Commissioners' report to be under oath—damages and benefits to be separately stated.
7. Report may be reviewed on exceptions—court may order new appraisalment, etc.
8. Cost of proceedings—commissioners each allowed \$3.00 a day.
9. Report of commissioners to be submitted to assembly—report stands approved if no action taken within time limited—on disapproval of report, court shall set same aside and order new assessment—withdrawal of proceedings by city, conditions.
10. Final action of court to be reported to comptroller, who shall furnish copy to assembly—appropriation to pay damages; failure to appropriate to operate as a bar for ten years.
11. City may deduct benefits from damages, and shall pay excess or deposit in court—interest disallowed, when—when title of property in dispute damages paid into court—improvement may proceed.
12. Condemnation of property for particular uses.

SECTION

WATER AND GAS PIPE CONNECTIONS.

13. Board of public improvements to regulate.

CONSTRUCTION OF STREETS, BOULEVARDS AND ALLEYS.

14. Ordinances for improvement of streets, etc., to originate with B. P. I.—board to designate day for public meeting to consider improvements—notice, contents and time of publication—remonstrance against improvement, time of filing, etc., and action of board thereon—two-thirds vote will overrule—board to prepare and report to assembly ordinance, with reasons, in event of remonstrance—majority vote of board sufficient in absence of remonstrance—board may provide in improvement ordinance that work and material be guaranteed and kept in repair for a term of years—special taxes to be levied and assessed according to frontage and area, apportionment—benefit districts for special taxation established, method—special taxes for the construction of sidewalks apportioned by front foot rule—terms "reconstructing" and "repaving"—construed—partial improvements by reconstructing and repaving permitted—contracts for improvement of sidewalks considered distinct from those of streets, etc. Culverts and partial grading of streets—special taxation for improvement of alleys—word "lot" defined.
15. Improvement ordinance, requisites—may specify term of years for which work shall be maintained—estimate of cost to be endorsed—streets, etc., to be established or dedicated prior to improvement.
16. Vote of assembly on improvement bills.
17. All ordinances for public work to be recommended by the board of public improvements.
18. Apportionment of cost of improvements portion paid by the city and property owners respectively—no limit to special taxation.
19. Nuisances caused by public works to be abated by city—damages by change of grade to be paid by city.

PUBLIC IMPROVEMENTS—STREET OPENINGS.

SECTION

SEWERS.

20. Classification of sewer system—"public," "district," "joint district" and "private."
21. District sewers, establishment and construction—districts may be changed—special taxation for, authorized—repairs and incidental expenses paid by city—reconstruction of sewers permitted at expense of property.
22. Joint district sewers, how established—special taxation for, authorized; how levied and assessed. When territory outside of city limits is drained, city to pay portion of cost of construction—joint district sewers may be constructed in sections.
23. Private sewers—city to be at no expense for same—sewers and drains deemed private—may be acquired by city—special taxation therefor authorized—connections with other sewers, compensation for, at option of city.

SPECIAL TAX BILLS.

24. Special tax bills—how made out, registered and delivered—place of payment to be designated.
25. Special tax bills to be a lien on property—collected in name of contractor—interest—city marshal to serve notice—action for false returns—suit by attachment against non-resident—certified tax bill prima facie evidence—defenses—city not to be liable on special tax bills—

SECTION

certain tax bills shall be divided into parts and may be paid in installments—interest—effect of non-payment of interest or installments when due—limitation of lien of special tax bills—entry of satisfaction.

26. Special tax bills may be assigned—formality required—payment.

CONTRACTS FOR PUBLIC WORK.

27. Assembly forbidden to contract for public work—B. P. I. to submit ordinance for proposed work—advertisement for bids, requisites—contract to be let to "lowest responsible bidder"—one having failed to carry out prior contract with city deemed not responsible—bids may be rejected—certified check to accompany all bids—sureties on contractor's bond.
28. Improvement ordinances to contain specific appropriations—work may be done in parts, but ordinance to provide for the whole and appropriations shall be made for each part—contract provisions—suspension of work on complaint—B. P. I. to examine and report—costs.

STREET SPRINKLING.

29. Street sprinkling authorized by ordinance—special tax bills therefor issued in favor of city—contracts made annually by B. P. I.—sprinkling districts—date of special tax lien—interest—cost of sprinkling paid out of city treasury and city reimbursed by special tax bills.

Section 1. Streets to be established—lots, etc., to conform to established streets—map or plat of new blocks, lots, etc., to bear certificate of responsible surveyor, be approved by B. P. I. and refer to established landmark, otherwise cannot be recorded—dedication of public use of streets, alleys and public places.—The Municipal Assembly shall by ordinances recommended by the Board of Public Improvements, established from time to time such streets as may be necessary to provide public thoroughfares for free and convenient traffic and communication between different parts of the city, and after such establishment, by ordinance, and after proceedings for the opening of such streets have been commenced, owners of property desiring to subdivide into blocks, lots, or sub-lots, shall conform their sub-divisions to such established streets. In all cases when any lands within the city are hereafter sub-divided or laid out in blocks, lots, or sub-lots, the map or plat thereof shall bear the certificate of a responsible surveyor, to the effect that the streets thereon represented are correctly shown and located, and they shall be designated as streets, if they have been or are dedicated or opened according to law, or as proposed streets if such opening is incomplete. Said map or plat shall be submitted to the Board of Public Improvements for its approval. No such map or plat, or deed or instrument containing such

map or plat shall be recorded in the Recorder's office of the City of St. Louis, or have any validity, until the approval of said board is endorsed thereon, and all such maps, plats or deeds dividing or sub-dividing any block, lot or sub-lot, shall specifically state the initial point of survey, which shall bear a designated relation to some known landmark or United States survey, and from which all measurements shall be made. It shall be the duty of the Recorder of Deeds to enforce this section before any person shall be permitted to record any such map, plat or deed. The city shall not be liable for damages for the taking of any building or improvement erected or made on a proposed street or alley after the map or plat showing same is recorded. The Board of Public Improvements shall have authority to approve maps or plats of sub-divisions which fully dedicate to public use streets, alleys and public places and which are made as hereinbefore required.

See note at end of this section.

Limitations as to heavy hauling and business traffic—conditions.—The board shall also have authority to approve dedications of streets containing a limitation that heavy hauling and business traffic shall be excluded therefrom, in which case the entire cost of grading, improving, maintaining, repairing, cleaning and sprinkling of such streets shall be borne by and be assessable against the property fronting or bordering thereon, and the approval of said board shall so recite; but said board shall require, in both cases last above enumerated, that all such streets and alleys be made safely passable before the map or plat making such subdivision and dedication shall be approved, recorded or accepted.

Private places.—No map or plat embracing a private place shall be approved unless it conveys to the city the right to place, construct and maintain in such private place, sewers, sewer inlets, water mains, gas mains, underground conduits for electric wires, fire plugs, lamp posts and other conveniences for the public service and use of the city.

Boulevards, conditions for the establishment.—The Municipal Assembly may, by ordinance recommended by the Board of Public Improvements, establish and open boulevards, or change existing streets into boulevards, and fix the width thereof, and the manner of laying out and improving the same; and may regulate the traffic thereon, and may exclude heavy driving thereon or any kind of vehicle therefrom, and may exclude and prohibit the erection or establishment or maintenance of any business house, or the carrying on of any business vocation on the property fronting on such boulevard, and may establish a building line to which all buildings, fences, or other structures thereon shall conform. And may provide for grading, improving, constructing, reconstructing, maintaining, cleaning, sprinkling, the planting of trees, shrubbery and other things of that description and nature thereon, and the entire cost connected with all of said work on such boulevards shall be levied, assessed and collected as a special tax on the property fronting or bordering on such boulevard in the proportion that the linear feet of each lot fronting or bordering on the boulevard bears to the total number of linear feet of all property fronting or bordering on the same, and the work of maintaining, repairing, cleaning and sprinkling may be contracted for annually, or for a term of years not exceeding ten, by the Board of Public Improvements of the city at such time, and under such terms and conditions as shall be provided by ordinance, to be recommended by said board, and special tax bills for all work shall be made out in the name of the contractor and delivered to him, and his receipt taken for all claims against the city in the same manner as provided

by this Charter for other special tax bills, for doing public work: *provided*, that the special tax bills for maintaining, repairing, cleaning and sprinkling shall be levied and assessed annually. All such special tax bills shall be *prima facie* evidence of the liability of the property charged therewith to the extent and amount therein specified. The Municipal Assembly shall not grant any franchise for the occupancy or use of such boulevard or any part thereof, except with the consent, in writing, of the owners of two-thirds in frontage of the property fronting or bordering thereon; *provided*, however, that for the establishment and opening of such boulevards, the procedure set out in this article in reference to opening streets shall be pursued, except that the benefit district to be established by the commissioners shall be limited to the property fronting or bordering on such boulevard, and except that adequate compensation shall be allowed the owners of property fronting or bordering thereon, for damages occasioned by the establishment of a building line on such boulevard, and by limiting the use to which such property may be put by the owners thereof.

See note below.

Discontinuance of boulevards.—The Municipal Assembly may at any time repeal any ordinance establishing or opening a boulevard, or changing an existing street into a boulevard, and thereupon such boulevard shall be and become a street in all respects like other streets of the city and the property abutting thereon shall be relieved from the restrictions imposed by such ordinance; *provided, however*, that such an ordinance shall not be repealed without the consent in writing of the owners of at least two-thirds in frontage of all the property fronting on such boulevard, nor unless such repeal shall be recommended by the Board of Public Improvements; and, *provided further*, that the procedure provided in this article for the establishing and opening of boulevards shall be pursued for the ascertainment and payment of damages and benefits resulting from such repeal; except that no compensation shall be allowed or paid to any person consenting to the repeal of such an ordinance.

Other Charter Provisions on street openings see Art. III, sec. 26, clause 2; condemning for other purposes: Art. VI, sec. 12; Art. VII, sec. 4.

Ordinance provisions on street openings, etc., and sewer condemnations: Rev. Code, Chap. 12, Art. 1, secs. 876 to 883 inclusive.

This Charter provision is an amendment adopted at the election, Oct. 22, 1901, under ordinance 20444.

The Power of Eminent Domain must be exercised strictly in accordance with the organic provisions, and every jurisdictional fact must appear affirmatively upon the face of the record: See authorities cited in note to sec. 2 of this article.

The nature of the proceeding to open or widen a street and the effect thereof was discussed in *Eyssell vs. St. Louis*, 168 Mo. 607, and recently in the case of *Brinckwirth vs. St. Louis* (decided by the Supreme Court May 29, 1907, and not as yet reported) which expressly overruled the said *Eyssell* case. See also *infra* note to sec. 25 of Art. VI.

The proceeding when consummated is a judgment, having the same incidents as other judgments; hence it was at first held that the benefits assessed against the property, evidenced by tax bills, may be recovered at any time within ten years, and no matters are reviewable which have not been preserved by exceptions, and no new defenses can be made against the collection of the tax bills that were available in the first proceeding; but that ruling was overruled in part, and it is now held that suit can only be brought on a special tax bill duly issued in accordance with the legal requirements: See authorities cited in note to sec. 2 of this article.

Elevations of alleys and streets—City Directrix. Under the charter prior to amendments of 1901 it was held that sec. 1 of this article did not require the elevation of an *alley* to be fixed by the assembly, but that the street commis-

sioner could do that as a ministerial matter: *Weber vs. Johnson*, 37 Mo. App. 601. See the present provision in sec. 17 of this article as well as this section.

In St. Louis elevations are determined by a point called the city directrix. See interesting discussion as to origin and location in note in McQuillin's (unofficial) work "Amend. Charter," p. 303 and in Mun. Code, p. 254.

How far opening and improvement of streets is legislative and how far ministerial. The city acts in two capacities; first, governmental; second, ministerial. When it declares by ordinance that land embraced within certain lines is a public street, then, when the city obtains the title or easement either by gift or condemnation, it becomes a public street. But it is not then necessarily opened to the public for use. If after that an ordinance provides for the improvement of the street so as to render it fit for use, even then it is not, by the mere passing of the ordinance, opened for use. So far the city acts in its governmental and legislative capacity. The whole street need not be included in the improvement, but so much and such parts as the legislative body in its discretion thinks proper. Nor is the city liable to an individual for neglect of duty in such capacity. But, after the improvement ordinance is passed, the city undertakes the work of construction as in the ordinance required, its acts are ministerial and for neglect in the same, or keeping the same thereafter in repair, the city is liable: *Ely vs. St. Louis*, 181 Mo. 723; *Ruppenthal vs. St. Louis*, 190 Mo. 213. See also *Hannibal vs. Campbell*, 86 Fed. (C. C. A.) 297.

In how far the municipal assembly is subject to review for fraud in the passage of an ordinance establishing a street see *Kansas City vs. Hyde*, 196 Mo. 498, and other cases cited in introductory note to Art. III, sec. 26.

What is a street, highway or sidewalk, and what included: A street, in the legal acceptance, includes the portion provided for passage of vehicles, and also the sidewalk provided for pedestrians: *Seibert vs. Railroad*, 188 Mo. 657, 671; *Straub vs. St. Louis*, 175 Mo. 413; *Knapp, Stout & Co. vs. Ry.*, 126 Mo. 26, 35.

But it is sometimes used in a more restricted sense so as to include only the roadway: *Knapp, Stout vs. Ry.*, 126 Mo. 26, 35.

Where the entire space from curb to lot line is set aside for a sidewalk, that portion thereof set apart for a grass-plot constitutes part of the sidewalk which the city must keep in safe condition: *Coffey vs. Carthage*, 186 Mo. 573.

The word "street" usually means a public street, not private ways though the public be permitted to use the same: *Collier Est. vs. Paving Co.*, 180 Mo. 362, 388. See also *Restetsky vs. Railroad*, 106 Mo. App. 382, 388. See also Rev. Code, sec. 1855.

A municipal free bridge across the Mississippi River from St. Louis to the Illinois side is as much a highway as any other highway, and is for a municipal purpose; and it seems that congress may grant power to the city, and has done so, to condemn property therefor situated in the other State: *Haeussler vs. St. Louis*, decided July 2, 1907 (Sup. Ct. Mo. in banc, not as yet reported).

Distinction between streets and alleys: *Dries vs. St. Joseph*, 98 Mo. App. 611; *Corby vs. Railroad*, 150 Mo. 457, 468 (pointing out the functions of alleys); *St. Louis vs. Lane*, 110 Mo. l. c. 258 (pointing out the reason of the difference in benefit districts although the specific provision in the charter as there construed has been amended).

Property owners abutting on a street have in addition to the general use of the street common to the public, certain special rights peculiar to themselves, amongst which is the right of ingress and egress.

This gives them a special right, not shared by the public, when such ingress and egress is interfered with to damages or other redress: See cases in note to what uses a street may be used for, Art. III, sec. 26, clause 2; also cases cited under same note on "vacating streets"; and see note to "nuisances" in Rev. Code, Chap. 11, Art. 12 (preceding sec. 584). See further *Downing vs. Corcoran*, 112 Mo. App. 645, 649; *De Geofray vs. Merch. Bridge*, 179 Mo. 698; *Ruckert vs. Grand Ave. Ry.*, 163 Mo. l. c. 278; *Dries vs. St. Joseph*, 98 Mo. App. 611, 614; *Corby vs. Railroad*, 150 Mo. 457; *Schöpp vs. St. Louis*, 117 Mo. 131; *Stephenson vs. Ry.*, 68 Mo. App. 642; *Thomas vs. Hunt*, 134 Mo. l. c. 398.

Ownership of fee: When lots abutting on a highway or platted street are sold, the purchaser takes title to the centre of the street, if the grantor owned that

far, unless a contrary intention appears from the deed: *Restetsky vs. Railroad*, 106 Mo. App. 382, 387; *Grant vs. Moon*, 128 Mo. 43; *Snoddy vs. Bolan*, 122 Mo. 479 (a leading case in this State).

In Missouri the abutting owner presumptively owns the fee to the centre of the street, subject only to the easement of the public; for all other purposes, not inconsistent therewith the owner has the full rights: *Un. El. Co. vs. Ry.*, 135 Mo. 353, 366. *Thomas vs. Hunt*, 134 Mo. 392, 399, 401. *Snoddy vs. Bolan*, 122 Mo. 483, 488. *Gordon vs. Peltzer*, 56 Mo. App. 599 l. c. 604.

A valid statutory dedication by plat, etc., operates to vest the fee in the city for public purposes and dispenses with the necessity of an acceptance by the public, and the dedicator cannot thereafter change the boundaries, etc. *Brown vs. Carthage*, 128 Mo. 10, l. c. 17 and cases cited (holding that it made no difference that there was a reservation of "trees and rocks" on the surface).

But such fee in the city is only for public purposes, and it is not meant by the statute to vest in the city a right to dispose of it by deed, but only the control of the street, for the use of the public; subject to the public easement the owner adjoining owns to the centre of the street or alley: *Union Elev. Co. vs. Ry.*, 135 Mo. 353, 366 and cases cited: *Thomas vs. Hunt*, 134 Mo. 392, 402-403.

How Highways May be Established: A public highway may be acquired over property of a private individual by, *first* a grant or deed; *second*, a dedication by plat or deed; *third*, by acts *in pais* which amount in law to a dedication: *Railway vs. Railway*, 190 Mo. 246, 253 and cases cited.

For establishment of highway by condemnation, see note to next section of this article.

A street railway may, by its acts *in pais*, dedicate for street purposes a private right of way over which it is operating, and the city's acceptance may be established by its acts, and thereafter it may authorize another street railway company to operate thereover: *Railway vs. Railway*, 190 Mo. 246.

Common Law Dedication is effected where the owner has done an act which clearly indicates his intention to dedicate the street, and the city does an act clearly indicating its purpose to accept; in such case it is not necessary to show user, and limitation has nothing to do with the city's title: *McGrath vs. Nevada*, 188 Mo. 102.

There can be no dedication without an intention so to do; permissive use to the public by the owner, by permission to drive or walk over the private way constitutes no dedication, no matter how long continued: *Collier Est. vs. Paving Co.*, 180 Mo. 362, 388.

But where an owner holds out land as a street and sells lots according to the plat he is estopped from denying that it is as he held out: *McGinnis vs. St. Louis*, 157 Mo. 191, and cases cited; see also *Longworth vs. Sederic*, 165 Mo. 221, 230.

Dedication by Plat, etc.: Mere purported dedication to public use does not make a public street; there must be an acceptance in some manner by the city, such as public user for that purpose, though a formal acceptance is not necessary. Until public, and the dedicator cannot thereafter change the boundaries, etc.: *Brown* such acceptance there is no street. *Skrainka vs. Oertel*, 14 Mo. App. 474, 480; *St. Louis vs. University*, 88 Mo. 155, 158 (holding that there could be no acceptance of a dedication for a street outside the city limits); *Milling Co. vs. Riley*, 133 Mo. l. c. 584.

Mere user by the public will not establish a street; and an approval of a plat, by the municipal authorities, of a proposed addition, filed in conformity with the statute, only goes to show that the same conforms to the general plan of the city, and is not an acceptance by the city of the proposed dedicated land as a street: *Downend vs. Kansas City*, 156 Mo. 60, 67. (For ordinance on how plats of subdivisions to be submitted to B. P. I. see this section and also R. C. Sec. 1917.) But whether acceptance need be shown in case of statutory dedication or street by prescription, see *Meiners vs. St. Louis*, 130 Mo. 274, and cases there cited. And an acceptance by the city may be implied from any act tending to recognize it, though there be no ordinance of acceptance: *Buschmann vs. St. Louis*, 121 Mo. 523; *Heitz vs. St. Louis*, 110 Mo. 618; *Milling Co. vs. Riley*, 133 Mo. l. c. 585; *Meiners vs. St. Louis*, 130 Mo. 274.

As to what constitutes a statutory dedication, see *Brown vs. Carthage*, 128 Mo. 10 (containing reservation); *Buschmann vs. St. Louis*, 121 Mo. 523 and cases cited; *Heitz vs. St. Louis*, 110 Mo. 618; *Milling Co. vs. Reiley*, 133 Mo. 574 (holding also that no one but the owner can make either statutory or common law dedication).

Conveyance does not affect one not joining who holds a deed of trust on the land: *McShane vs. Moberly*, 79 Mo. 41.

A defective statutory dedication by acceptance and user may become a good common law dedication: *Heitz vs. St. Louis*, supra, and cases therein cited; *Milling Co. vs. Reiley* supra; *Longworth vs. Sedevic*, 165 Mo. 221, 230.

As to whether the fee goes to the city or remains in the owner of abutting property, see *supra* this note.

Title in the city may be acquired by prescription, without dedication, by long use and acquiescence by the owner: See *Meiners vs. St. Louis*, 130 Mo. l. c. 284; *State vs. Walters*, 69 Mo. 463; *State vs. Proctor*, 90 Mo. 334; *Baumann vs. Boeckler*, 119 Mo. 189.

Common law dedication gives the city the right not only to pass over the servient land, but to enter and prepare it and keep in suitable condition for particular use to which dedicated: *Gamble vs. Pettijohn*, 116 Mo. 375.

Title to public property not lost by adverse possession.—Since the statute of 1865 (Rev. St. 1899, Sec. 4270) no person can acquire title by adverse possession to any part of a public street: *St. Louis vs. Ry.* 114 Mo. 13, 24; *Columbia vs. Bright*, 179 Mo. 441; *Wright vs. Donovan*, 169 Mo. 601 (where the land had been taxed to such claimant against the city); *State ex rel. vs. Vandalia*, 119 Mo. App. 406, 423.

But prior to that time it was otherwise: *Crigler vs. Mexico*, 101 Mo. App. 624.

And the city may acquire title by adverse possession: *Mitchell vs. Railroad*, 116 Mo. 81, 88 (alley); *Baumann vs. Boeckler*, 119 Mo. 189; *State vs. Walters*, 69 Mo. 463; *Longworth vs. Sedevic*, 165 Mo. 221, 230-231.

Conditional Conveyances to Public Use.—B. P. I. has authority to approve maps or plats of subdivisions "which *fully* dedicate" streets, etc.

A valid statutory dedication by plat, etc., vests the fee in the city, notwithstanding a reservation of "trees and rocks" on the surface, etc.: *Brown vs. Carthage*, 128 Mo. 10, 17.

A dedication on condition precedent can not take effect until the condition has been complied with, and if that is not done the land may be treated as unaffected thereby: *St. Louis vs. Meier*, 77 Mo. 13 (upholding its condemnation as in other cases); *Creamer vs. McCune* 7 Mo. App. 91; *Kemper vs. Collins*, 97 Mo. 644; *Clark vs. Brookfield*, 81 Mo. 503; *St. Louis vs. Cruikshank*, 16 Mo. App. 495.

A provision in a dedication that the property on streets to be opened shall not be subject to special taxation, is void; the city cannot make any such agreement: *Vrana vs. St. Louis*, 164 Mo. 146.

Where persons convey land to a municipality by ordinary deed for a pecuniary consideration without reservation of the use to which it is to be put, they will not be heard to contend that the property was intended to be used only for street purposes: *Pickett vs. Mercer*, 106 Mo. App. 689.

Where an easement is created the title remains in the grantor and is freed from the easement on its abandonment, and if the title is conveyed on condition, reverts when the condition fails; but land dedicated to a particular use without reservation of right of re-entry on the diversion or abandonment of the use, may be used for any other purpose without re-investing the grantor's title; relief to compel the execution of the trust should be sought: *Hand vs. St. Louis*, 158 Mo. 204, citing and distinguishing numerous city cases.

Proprietors dedicating land to public use remain for all other purposes the owners, and the city cannot divert the property to a private use in violation of the trust: *Cummings vs. St. Louis*, 90 Mo. 259.

Nor when dedicated for one public use can it be diverted to another: *Belcher Co. vs. St. L. G. Co.* 82 Mo. 121; s. c. 101 Mo. 190.

Land conveyed to be used as a market place and so long as so used, and when it ceased to be so used to revert to donor, the donee (city) to reconvey, is held by the city not as determinable fee, but on condition subsequent, and though condition broken, estate is not defeated before entry by donor: *Adams vs. Lindell*, 72 Mo. 198, affirming s. c. 5 Mo. App. 197. But where the covenant is that the land shall revert and grantee reconvey when the city ceases to use same for market, an abandonment gives a right of re-entry, the grantor retaining the fee: *Baker vs. St. Louis*, 75 Mo. 671, affirming s. c. 7 Mo. App. 429.

A dedication on condition that adjacent owners likewise dedicate is not consummated until such condition is complied with; *St. Louis vs. Meier*, 77 Mo. 13, 18-19.

Boulevards: An ordinance providing that all houses fronting on a certain street shall be used for residences only, and no business avocation shall be allowed therein, is void as an invasion of personal rights: *St. Louis vs. Dorr*, 145 Mo. 466, 472, 485; and an act of the legislature providing for establishing a building line by the city to which all buildings must conform, without providing for compensation, is unconstitutional: *St. Louis vs. Hill*, 116 Mo. 527.

A distinction is made under the charter in the method of paying for repairing, etc., between streets and boulevards, etc.: See Sec. 18 of this article.

CONDEMNATION PROCEEDINGS.

Sec. 2. Form of Petition—Commissioners to assess damages—parties defendant.—Whenever the Assembly shall provide, by ordinance, for establishing, opening, widening or altering any street, avenue, alley, wharf, market place or public square, or route for a sewer, water course or water pipe, or for other public improvements, on recommendation of the Board of Public Improvements, and it becomes necessary for that purpose to appropriate private property, the City Counselor, in the name of the City of St. Louis, shall apply to the Circuit Court of the Eighth Judicial Circuit, or to any one of the judges in vacation, by petition setting forth the general nature of the improvement proposed to be made, the names of the owners of the several lots or parcels of land, if known, or if unknown, a correct description of the parcels whose owners are unknown, and praying the appointment of three disinterested commissioners, freeholders of property in said city, to assess the damages which said owners may severally sustain by reason of the appropriation and condemnation of such real estate by the city, for any of the purposes aforesaid, to which petition the owners of such lots or parcels of land embraced in the proposed improvement shall be made parties defendant by name, if the names are known, and by description of the land of unknown owners. If the proceedings seek to affect the lands of persons under guardianship, the guardians must be made parties defendant; if the lands of married women, their husbands must be made parties defendant. If the possessor of land to be affected has an estate less than a fee, the person having the next vested estate in remainder or reversion must, if known, be made a party defendant. It shall not be necessary to make any persons parties defendant in respect to their ownership, unless they are in actual possession of the premises to be affected, or have a title to the premises appearing of record upon the proper records of the city.

This is an amendment adopted at the charter election of October 22, 1901.

Condemnation for water works purposes: see Charter Art. VII, Sec. 4.

Ordinances on street and sewer condemnations and street openings, see Rev. Code, Secs. 876-883.

What are street purposes, such as authorize an ordinance of condemnation, see *Kansas City vs. Hyde*, 196 Mo. 498 and other cases cited in note to Art. III, Sec. 26, paragraph 2.

Right to Condemn.—"The Charter provisions of St. Louis and Kansas City as to condemnation proceedings have been so often before this court, and have never been held to be out of harmony with the constitution and laws, that a declaration at this late date that said cities were without such a power, and that these charter provisions were *ultra vires*, would invite a flood of litigation. . . . We think it was properly ruled that the special charter superseded the general statutes where the two conflicted as to a mere municipal regulation, and we hold that condemnation proceedings to acquire lands for streets, parks, waterworks, sewers and the like, clearly fall within municipal regulations. It follows that notwithstanding the charter did not follow the civil practice as prescribed in the code of practice . . . the special provisions must control." *Kansas City vs. Oil Co.*, 140 Mo. l. c. 472.

The City of St. Louis had the right to provide, under the laws passed by Congress, by this State, by the Charter, and by its own ordinances for the free bridge across the Mississippi river from St. Louis to the Illinois side, and it seems it has the right to condemn property therefor, not only in the city, but in the State of Illinois, without the consent of the latter: *Graves, J., in Haeussler vs. St. Louis*, (July 2, 1907, not yet reported, following *Luxton vs. North River Bridge Co.*, 153 U. S. 525). Judge Lamm concurring in this proposition, Gantt expressing no opinion, Burgess not sitting, Valliant and Fox dissenting.

The framers of the Scheme and Charter had power to confer jurisdiction in street opening proceedings upon the Circuit Court: *St. Louis vs. Greeley*, 14 Mo. App. 578 (memo. opin.) *St. Louis vs. Gleason*, 15 Mo. App. 25 (reversed on another point, but approved in this: 93 Mo. 33; s. c. 89 Mo. 67). See also *St. Louis vs. Ranken*, 96 Mo. l. c. 504.

Street openings begun under the old Charter after Nov. 22, 1876, and before March 5, 1877, when it became known that the new Scheme had been adopted, were valid under the *de facto* principle: *St. Louis vs. Stoddard*, 15 Mo. App. 173; *Adams vs. Lindell*, 72 Mo. 198. See on this point introductory note to Art. III, sec. 26.

In proceedings of eminent domain in the opening of streets, every material requirement of the law authorizing such proceeding must be strictly complied with; and unless it affirmatively appear upon the face of the proceedings that every essential prerequisite of the law conferring the authority has been complied with, such proceeding will be void: *St. Louis vs. Koch*, 169 Mo. 587, loc. cit. 591, with citation of numerous cases; *Spurlock vs. Dorman*, 182 Mo. 242, 250; *St. Louis vs. Gleason*, 93 Mo. 33, 37-38; *Schaffner vs. St. Louis*, 31 Mo. 264; *St. Louis vs. Cruikshank*, 16 Mo. App. l. c. 497; *State ex rel. vs. St. Louis*, 67 Mo. 113, 117.

"It is the duty of the judicial tribunal to insist that every provision intended for the benefit of the owner be complied with. . . . The mode prescribed must be strictly and guardedly complied with, although unreasonableness is not required." *St. Louis vs. Franke*, 78 Mo. 41 (quoting *Dillon*).

Where the ordinance must be recommended by the Board of Public Improvements, that is jurisdictional, and an ordinance without such is void: See authorities cited in note to Sec. 17 of this article.

The ordinance which was the basis of the proceeding cannot be amended and the proceedings continued thereunder, even before the present amendments: *Shaffner vs. St. Louis*, 31 Mo. 264.

Where condemnation was authorized only in case no agreement could be reached, the proceedings must show this condition to be the case: *Moses vs. St. L. Sec. Dock Co.*, 84 Mo. 242, 245; *Graf vs. St. Louis*, 8 Mo. App. 562; *Leslie vs. St. Louis*, 47 Mo. 474; *Anderson vs. St. Louis*, 47 Mo. 479.

Provisions in a charter requiring the recommendation of a certain board of commissioners preliminary to an ordinance of condemnation are valid: *Kansas City vs. Mastin*, 169 Mo. 80, 93.

The petition must allege the jurisdictional facts (see cases *supra*); and since a valid ordinance is necessary to the jurisdiction of the court an ordinance which is to take effect on a certain condition is insufficient unless it be alleged and proved that the condition has been complied with: *St. Louis vs. Cruikshank*, 16 Mo. App. l. c. 496-497. The passage of the ordinance authorizing a street improvement does not make out a *prima facie* case of compliance with precedent conditions, all of which must be alleged: *St. Louis vs. Frank*, 9 Mo. App. 579 (memo. opin.).

The names of the known owners must be alleged; if unknown there must be publication and a correct description of the land; *Sieferer vs. St. Louis*, 141 Mo. 586.

Notice by publication valid, and what notice is sufficient: *Kansas City vs. Mastin*, 169 Mo. 80 l. c. 90.

Conclusiveness and Effect of the Proceedings.—But the proceeding when consummated is a judgment, having the same incidents as other judgments; hence it was held the benefits assessed against the property, evidenced by tax bills, may be recovered at any time within ten years; and no matters are reviewable which have not been properly preserved by exceptions; and it was further at one time held that no new defenses can be made against the collection of the tax bills, that were available in the first proceeding: *St. Louis vs. Annex Realty Co.*, 175 Mo. 63, following *Eyssell vs. St. Louis*, 168 Mo. 607, where the nature of the proceeding is fully discussed by the court; but the decision in the *Eyssell* case was expressly overruled by the Supreme Court in this respect in the recent case of *St. Louis vs. Brinckwirth* (decided May 29, 1907, and at this writing not yet reported), which held that the first or condemnation proceeding was not broad enough to be a judgment warranting execution for the benefits found therein, but that the benefits could only be recovered by suit on the special tax-bill issued in accordance with the legal requirements; that the ruling in the *Eyssell* case in fact would make the court assess the tax, which the law requires the municipality to issue and perfect; the court will not uphold the doctrine that the law allows both the assessment and collection of taxes in a single suit, or confers on the court the governmental function of levying the tax; and the *Eyssell* case was overruled.

When the court has taken final action upon the report, and the Assembly appropriated money for the damages for the property taken, such assessment becomes final and conclusive upon the question of benefit to the tax-payers, the amount thereof, the lien attaches, and these questions cannot be relitigated in any subsequent suit that the city may find it necessary to bring to enforce the lien in collecting the tax assessed; the only question that can be raised in such a suit is as to the validity of the assessment and levy: *St. Louis vs. Ranken*, 96 Mo. 497; approved in *St. Louis vs. Brinckwirth*, *supra*.

Nor can the defense be made in an action on the tax-bill that there was no compensation for land taken or damaged: *Springfield vs. Baker*, 56 Mo. App. 637, 640.

Nor that the property was not subject to special taxation: *Vrana vs. St. Louis*, 164 Mo. 146, 153.

The court having acquired jurisdiction over the parties and the *res* in the condemnation proceedings, every presumption is to be indulged in favor of the jurisdiction of the court in a collateral proceeding; hence the question whether the city had, before the condemnation proceeding, acquired the property sought to be condemned, can only be tried in such proceeding, and not in a suit to enforce a special tax-bill for benefits or enjoin their collection: *Buddecke vs. Ziegenhein*, 122 Mo. 239, 243-244; *Michael vs. St. Louis*, 112 Mo. 612; *Vrana vs. St. Louis*, 164 Mo. 146, 153.

Under the rules relating to tax-bills for construction of streets, sewers, etc., the owner cannot contend in an action to enforce the bill that he has not been benefited, nor that there was no necessity for the work, etc.; but this is on the ground that such matters are legislative in character with which the courts will not interfere; while the rule that assessment of benefits in street opening cases cannot be reviewed is on the ground of *res judicata*. (See cases on former point cited hereafter in sec. 14 of this article.)

Distinction Between Taking Property and Assessing Benefits, or Taxing for Local Improvements.—The opening of the street, and assessment of special benefits, are different things, though had in one cause. But the proceeding by which private property is taken by the city for the public use by condemnation under the power of eminent domain, is distinct in character from that by which the city raises funds under the power of taxation (by way of assessing benefits) to make compensation for property so taken: *St. Louis vs. Bus*, 159 Mo. 9, 12.

The distinction between taxing by assessment of benefits against property under these sections and the taxing for local improvement such as construction of streets, etc. (*infra*, secs. 14 et seq. of this article), was pointed out in *Eyssell vs. St. Louis*, 168 Mo. l. c. 621, which was, however, overruled by the Supreme Court May 29, 1907 (not yet reported), in *St. Louis vs. Brinckwirth*.

Special taxation is sustainable under the taxing power; and the constitutional provisions relating to the taking or damaging for public use apply to the power of eminent domain: *Keith vs. Bingham*, 100 Mo. 300; *Springfield vs. Baker*, 56 Mo. App. 1, c. 640. (See cases on special taxation in note to secs. 14 and 27 of this article.)

Appeals:—Jurisdiction on Appeal, Etc.: See note to sec. 10 of this article.

Sec. 3. Notice to defendants—process to be served by City Marshal—notice by publication.—Upon the filing of the petition, a summons shall be issued, giving such defendants at least ten days' notice of the time when said petition will be heard, which summons shall be served by the Marshal—who shall, for such purpose, be *ex-officio* an officer of the Circuit Court—in the name and manner as writs of summons are, or may be, by law required to be served. If the name or residence of the owner be unknown, or if the owners, or any of them, do not reside within the State, notice of the time of the hearing the petition, reciting the substance of the petition, and the day fixed for the hearing thereof, shall be given by publication for four weeks, consecutively, prior to the time of the hearing the petition, in the newspapers publishing the journal of the Assembly.

Parties: Under the old Charter, the notice required by the Charter was not waived by a recital in the journal of the triers of the fact that the parties appeared: "The appearance of the mostly interested cannot affect the others": *Shaffner vs. St. Louis*, 31 Mo. 1, c. 273.

One not served is not bound: *Moses vs. St. L. Sec. Dock Co.*, 84 Mo. 242.

Under the present Charter, known parties must be alleged; if unknown, there must be publication and a correct description of the land must be set forth: *Sieferer vs. St. Louis*, 141 Mo. 586.

One who is within the benefit district and hence assessable for benefits to become a lien on his property, but whose property is not taken for public use, need not be made a party to the original summons; he has his notice and hearing at a later stage of the proceedings: *St. Louis vs. Ranken*, 96 Mo. 497, 505, *et seq.*; *Buddecke vs. Ziegenhein*, 122 Mo. 239, 243. And the fact that such notice is by publication "does not militate against the validity of the assessment:" per Marshall, J., in *Eyssell vs. St. Louis*, 168 Mo. loc. cit. 616, and cases cited there. But if the notice is insufficient to identify the district or property to be benefited (as where there are two alleys to be opened in one block, and the notice refers to *an* alley), the property owner is not bound: *St. Louis vs. Brinckwirth*, decided May 29, 1907, by the Supreme Court (not at this writing reported). That the same summons is not required, results from the difference between the power of eminent domain exercised in the taking of property for the public purpose of opening the street and the taxing power exercised in assessing the special benefits resulting therefrom: See note to preceding section.

Sec. 4. Court shall appoint three freeholders as Commissioners, to assess damages; qualifications—majority may act and report.—The court, or a judge thereof, in vacation, on being satisfied that due notice of the pending of the petition has been given, shall appoint three disinterested commissioners, freeholders of property in said city, and residents of the city for five years next preceding their appointment, to assess the damages which the owners of the land may severally sustain by reason of such appropriation. *Provided, however*, that a majority of said commissioners shall have full power and authority to act and make a report.

Amendment adopted at election of Oct. 22, 1901, under ordinance 20444.

Sec. 5. Duty of Commissioners as to damages and benefits—assessment of benefits to be a lien against property—opening of alleys.—It shall be the duty of the commissioners to ascertain the

actual value of the land and premises proposed to be taken, without reference to the projected improvement, and to ascertain the actual damages done to the property thereby, and for the payment of such values and damages to assess against the city the amount of benefit to the public generally, and the balance against the owner or owners of all property which shall be especially benefited by the proposed improvement in the opinion of the commissioners, to the amount that each lot of said owner shall be benefited by the improvement. The sums to be paid by the owners of property especially benefited by the improvement, as ascertained by the commissioners, shall, when the report of the commissioners shall be confirmed by the court, as hereinafter provided, be *prima facie* evidence of the liability of the property charged therewith to the extent and amount therein specified, and shall be and remain until paid, a lien from the date of the final judgment of the Circuit Court on the property so charged, and shall be collected as provided by ordinance, and when collected shall be paid into the city treasury as a separate fund to be used exclusively for the payment of the damages awarded; *provided, however*, that in the opening of an alley the benefits shall be paid by the owners of such lots in the block in which the alley is opened as are afforded access by such alley.

This is an amendment adopted at the Charter election of Oct. 22, 1901, under ordinance 20444.

Lien: As to the right of the city to create a lien on private property being dependent on strict compliance with legal provisions, see note to sec. 25 of this article.

It was at one time held that the fact that sec. 5 provides that the assessment shall be a lien, did not show that it contemplated any special tax-bill at all or any subsequent suit; and the right to recover the amount was held not barred in five years, but in ten, as any other judgment, and the lien of that judgment expires in three years, like any other judgment lien: *Eyssell vs. St. Louis*, 168 Mo. 607, 619, followed in subsequent cases. It therefore followed that execution could be had without any special tax-bill. But the decision in the *Eyssell* case was expressly overruled in so far as it held that execution or scire facias could be issued for benefits assessed in the original condemnation proceeding, or that suit need not be brought on a special tax-bill thereafter regularly issued in accordance with the legal provisions governing the same: *St. Louis vs. Brinckwirth*, (Sup. Ct. May 29, 1907, not as yet reported).

Right to Jury or Board of Freeholders: See note to sec 7, *infra*.

Damages: A railroad company is not entitled to have assessed as damages certain structures and fixtures which a valid ordinance required it to put in at its own expense as a condition of its franchise: *Kansas City vs. Railroad*, 187 Mo. 146.

If a lessee is conducting a business on the premises, which will be broken up or interrupted by the taking of the property for public use, he is entitled to compensation: *St. Louis vs. Abeln*, 170 Mo. 318, 326, citing Missouri authorities. But the damage should be separately assessed and not adjusted by deduction from the sum allowed the landlord: *St. Louis vs. Abeln*, 170 Mo. 318, 326.

It was held that (under the act of 1875, p. 319) where the commissioners report that the improvement standing on the property should remain until removed, and it appears that no allowance for such improvement was made, as was required if it was included, the city acquired the right only to the land and not the building thereon: *St. Louis vs. Ins. Co.*, 90 Mo. 135 (this building still remains as an obstruction on west side of Jefferson and Morgan streets).

Where the damages assessed are just and reasonable, that they exceed the value of the property is not fatal: *St. Louis vs. Frank*, 9 Mo. App. 579 (memo. opin.). Other cases on questions of damages, see: 77 Mo. 13; 112 Mo. 361; 139 Mo. 315; 197 Mo. 392; 198 Mo. 698; 77 Mo. 13; 124 Mo. 129; 89 Mo. 646. And see remarks and cases cited in *Martin vs. St. Louis*, 139 Mo. loc. cit. 258.

Benefits: A conditional dedication where the condition has not been complied with is of no effect; and the owners of land cannot avoid assessment of benefits

by consenting to an opening through their lands on condition that no benefits be assessed and an acceptance by the commissioners of such offer is illegal, as tending to render the benefits assessed against others unequal: *St. Louis vs. Meier*, 77 Mo. 13.

Benefits cannot be assessed in gross upon several contiguous lots and recovery cannot be had upon a tax-bill issued upon such an assessment: *St. Louis vs. Provenchere*, 92 Mo. 66, citing and approving several cases from the Court of Appeals so holding.

One whose land is not taken for public use, but who is within the benefit district, so that a lien for benefits assessed may be charged thereon, need not be included as one of the original defendants summoned; with respect to the question of benefits he has notice and an opportunity to appear and be heard in the method pointed out by Charter and ordinance (now secs. 878 et seq. of R. C., requiring notice also by publication): *St. Louis vs. Ranken*, 96 Mo. 497; *Buddecke vs. Ziegenhein*, 122 Mo. 239, 243 (both holding that a special tax-bill for benefits could not be attacked on that ground); and the fact that only notice by publication is given does not militate against the validity of the assessment: *Eyssell vs. St. Louis*, 168 Mo. loc. cit. 616 and cases cited. But if the notice is not sufficient to identify the property to be affected or the benefit district (as where there are two alleys in one block and the notice does not designate which of the two are to be considered at the sitting of the commissioners), the owner is not bound by the notice or proceeding: *St. Louis vs. Brinckwirth* (Sup. Ct. May 29, 1907, not at this writing reported).

Under the former law the rule was different and notice and summons was required in the same manner as those whose lands were condemned: *State ex rel. vs. St. Louis*, 67 Mo. 113.

Assessment of benefits against the property of one whose property is within a benefit district but no part of whose land is taken for such street, is a legitimate exercise of the taxing power: *St. Louis vs. Speck*, 67 Mo. 403.

Damages and Benefits Under Former Superseded Charters: See *Shafner vs. St. Louis*, 31 Mo. 264; *McKee vs. St. Louis*, 17 Mo. 184; *Garrett vs. St. Louis*, 25 Mo. 505.

Grading and Changing Grade of Streets and Alleys: See note to sec. 19 of this article.

In Opening of Alleys, benefits shall be paid by the "owners of such lots in the block as are afforded access," etc. Under the former provision they were to be paid by the "owners of property in said block abutting on the proposed alley," which was held to include all owners of abutting property on an alley as completed, which was a continuation of one theretofore partly opened through the block: *St. Louis vs. Lane*, 110 Mo. 254.

Sec. 6. Commissioners' report to be under oath—damages and benefits to be separately stated.—When the Commissioners shall have viewed the property, and assessed the value and damages and benefits, they shall make their return of such assessment, in writing and under oath, to the Circuit Court, which shall be filed by the clerk thereof. In making such report, the value and damages allowed to each owner, and the benefits assessed against each individual shall be separately stated.

Sec. 7. Report may be reviewed on exceptions—Court may order new appraisement, etc.—The report of said Commissioners may be reviewed by the Circuit Court on written exception filed by either party in the Clerk's office, within ten days after the filing of such report, and the Court shall make such order therein as right and justice may require, and may order a new appraisement upon good cause shown; but the hearing of such exceptions shall be summary, and the Court shall fix a day therefor without delay, upon the filing of any such exceptions, or within ten days after the expiration of the time given said city to report the same to the Assembly as hereinafter provided.

On Exceptions to the Report, the latter is presumptively correct; the proceeding to review is not entirely *de novo* and, while the court must hear evidence as to

the correctness of the valuation of the commissioners, the latter will not be disturbed unless clearly shown to be inadequate or excessive: *St. Louis vs. Abeln*, 170 Mo. 318, and cases referred to in the opinion.

And *a fortiori* the Supreme Court will not disturb the findings of fact by the circuit court in affirming the report: *St. Louis vs. Wetzel*, 110 Mo. 260, 264-265.

On exception the commissioners are competent witnesses: *St. Louis vs. Abeln*, 170 Mo. 318.

The owner against whom benefits are assessed may except to the report on the ground that the ordinance upon which the proceeding is founded is void: *St. Louis vs. Cruikshank*, 16 Mo. App. 495.

Exceptions may be filed by leave of the court after ten days, if good cause is shown, and by contesting such exceptions the city waives the irregularity after an adverse ruling: *St. Louis vs. Weber*, 140 Mo. 515, 521.

But probably, if improperly filed out of time, such exceptions, as in other cases, may be stricken out: See *St. Louis vs. Lang*, 131 Mo. l. c. 421.

Modification of Report: The court may modify the report under this section by cutting down the benefit assessed and adding the amount to that assessed against the city, and this is not a violation of the landowner's right to have damages assessed by a jury or commission of freeholders: *St. Louis vs. Lawton*, 189 Mo. 474. The court may cut down or modify as to some or all, the assessment of benefits; but not as to the damages; and the action of the court with respect to the assessments of benefits in ordering a new appraisement or not is largely discretionary, and the appellate courts will only set same aside in case of abuse: *St. Louis vs. Buss*, 159 Mo. 9; *St. Louis vs. Lawton*, supra.

Jury: Since the Constitution of 1875 an incorporated company, (such as a railroad company) interested either for or against the exercise of the right of eminent domain (but not private citizens nor municipal corporations) may demand a jury to try the cause: *St. Louis vs. Roe*, 184 Mo. 324, distinguishing *Kansas City vs. Smart*, 128 Mo. 272, and other cases.

With respect to awarding damages as compensation for property taken in condemnation for street purposes, the owner under the constitution is entitled to have same determined by a jury or board of not less than three freeholders, as may be prescribed; but with respect to assessment of special benefits to the owner's lots resulting from the street opening, the constitutional provision does not apply, but the Charter provides that they be ascertained by the commissioners, subject to the power of the court to review their appraisement and modify same; and such modification is not an impairment of the right to a jury: *St. Louis vs. Buss*, 159 Mo. 9, 13.

The proper amount of compensation for private property taken for a public use cannot be fixed by the legislature. What is just compensation must be determined by a jury or appraisers: *Co. Ct. vs. Griswold*, 58 Mo. 175, 199.

Sec. 8. Cost of proceedings—Commissioners each allowed \$3 a day.—The cost of the proceedings, up to and including the filing of the report of the commissioners, shall be paid by the city, and as to any costs caused by subsequent litigation, the cost shall be paid by the losing party. The commissioners shall each be allowed three dollars a day in full compensation for their services.

Amendment adopted at charter election on Oct. 22, 1901 (submitted under ordinance 20444).

For ordinance provision see Rev. Code, sec. 882, and note thereto. Before the amendment, when the provision was that there should be a "reasonable compensation" it was held that an ordinance fixing a definite sum of three dollars per day, was void, the compensation being required to be ascertained by the court: *Green vs. St. Louis*, 106 Mo. 454.

Payment of costs to filing of report does not include attorneys' fees, expert witnesses, developing character of deposit on lands, etc., but only the ordinary fees: *St. Louis vs. Meintz*, 107 Mo. 611. And see further on this point the recent cases cited in the next section, discussing what are costs where the proceeding is dismissed by the city, etc.

Sec. 9. Report of Commissioners to be submitted to Assembly—report stands approved if no action taken within time limited—on disapproval of report, Court shall set aside same and order new assessment—withdrawal of proceedings by City, conditions.—Upon the report of said Commissioners being filed in the Circuit Court, or with the Clerk thereof, the Court shall give to the City of St. Louis, upon application of the City Counselor, reasonable time to report the result of the same to the Assembly for its information and approval, during which time no action will be had in or by said Court upon said report; and if the Municipal Assembly fails to act upon such report within the time limited, said report shall be deemed approved, but if during said time limited the Municipal Assembly disapprove said report of said Commissioners, the said Court shall set aside said report and order a new assessment of damages and benefits, and the City of St. Louis shall have the right, at any time before the final confirmation to said report, to dismiss and withdraw said proceedings on payment of the costs thereof. Should the city dismiss or withdraw any proceedings for condemnation after the report of the Commissioners has been filed, no action for such condemnation shall be had for a period of ten years next thereafter, unless upon the petition of the owners of three-quarters of the property fronting on the line of the proposed improvements, or upon payment, by the city, of the entire value and damages, such as aforesaid.

This section is as amended at the charter election on Oct. 22, 1901. Amendment submitted by ordinance 20444.

The disapproval of the commissioners' report by the assembly does not of itself operate as a dismissal of the case, and a dismissal in court is required to end the cause: *St. Louis vs. Lawton*, 189 Mo. 474, 483.

The object in permitting the city to dismiss after the report, giving the city counselor time to report to the assembly, etc., is to enable the cost of the improvements to be ascertained and if too great to permit the public to abandon the same, and as a result the city cannot again tie up the property by another proceeding except on the terms pointed out: *Eyssell vs. St. Louis*, 168 Mo. 607, 617. A refusal by the municipal assembly to appropriate the damages assessed operates to dismiss the proceedings: See note to next section (sec. 10).

Upon dismissal by the city of the condemnation proceedings, the city (though it is to pay costs) is not liable to the land owner for attorneys' fees, expert witness fees, etc., incurred in defending the case and protecting his rights, unless it is alleged and proved that the proceedings were needlessly, wrongfully and vexatiously continued against the land owner's protest when within the power of the city to dismiss and avoid such injury: *Lester Real Co. vs. St. Louis*, 170 Mo. 31; *Brewing Ass'n vs. St. Louis*, 168 Mo. 37, and cases cited. See as to costs up to filing of report of commissioners the preceding section, and note thereto.

Voluntary dismissal is not evidence of wrongful institution of such proceedings: *Simpson vs. Kansas City*, 111 Mo. 237.

Under a charter permitting the repeal of the ordinance providing for the proposed improvement it is held that in such case when new proceedings are brought the former assessment of benefits and damages is without any effect: *Kansas City vs. Mulkey*, 176 Mo. 229.

Refusal to proceed by the city leaves the court nothing to do but dismiss the proceedings: *St. Louis vs. Weber*, 140 Mo. 515, 522-523.

Sec. 10. Final action of Court to be reported to Comptroller, who shall furnish copy to Assembly—appropriation to pay damages—failure to appropriate to operate as a bar for ten years.—When the report of the Commissioners shall have been approved, or final action taken thereon by the Court, the Clerk of the Circuit Court shall make a certified copy of the report, and the final action of the Court thereon, and deliver the

same to the City Comptroller, who shall forthwith record the same in a book, to be provided for that purpose. It shall be the duty of the Comptroller, as soon as the same is recorded, to furnish a copy thereof to the Assembly, and the Assembly shall, at its first session thereafter, make an appropriation for the payment, out of the city treasury, of all damages assessed in favor of the owners of property appropriated, and the City Treasurer shall cause the same to be paid to the parties entitled thereto, respectively, or into court for their use, as provided by ordinance. Any failure of the Assembly, within the time above stated, to make such appropriation, shall operate as a dismissal of such proceedings, and no future action for such condemnation shall be commenced for a period of ten years, except as hereinbefore provided in case of a dismissal by the city.

Conclusiveness of the proceedings is the same as in case of any other judgment. As to the effect thereof and what may not be retried in the proceeding to enforce a tax bill for benefits assessed see authorities in note to sec. 2. of this article.

Appeal: Until the court acts finally upon the report of the commissioners no appeal can be taken: *St. Louis vs. Thomas*, 100 Mo. 223; see also 168 Mo. 1. c. 615. As to what is a final judgment in street opening case so as to authorize appeal, see *State ex rel. vs. Klein*, 140 Mo. 502; *Martin vs. St. Louis*, 139 Mo. 1. c. 261. See also *St. Louis vs. Nelson*, 169 Mo. 461.

Appeal after interplea by contending claimants: See next section of this article.

Compensation for damages cannot be claimed until final action approving the report: *Whyte vs. Kansas City*, 22 Mo. App. 409; and even thereafter a refusal of the municipal assembly to appropriate the money to pay the damages, operates as a refusal by the city to take the property; and such appropriation must be by ordinance, subject to veto by the Mayor: *Silvester vs. St. Louis*, 164 Mo. 601.

Jurisdiction on appeal in condemnation proceedings is in the Supreme Court, as title to realty is involved, whatever may be the amount of damages awarded: *Kansas City vs. Railroad*, 187 Mo. 146, 151, and cases cited; *Tarkio vs. Clark*, 186 Mo. 285, 294.

But action on special tax bill against property does not involve title so as to confer jurisdiction on Supreme Court: *Ross vs. Gates*, 183 Mo. 338. See also *State ex rel. vs. Smith*, 177 Mo. 69. Unless a constitutional question is raised: *Curtice vs. Schmidt*, 101 S. W. 61, 64 (March, 1907) following prior cases.

Sec. 11. City may deduct benefits from damages, and shall pay excess, or deposit in Court—interest disallowed, when—when title of property in dispute, damages paid into Court—improvements may proceed.—In all cases arising under this article, the city may deduct the benefits assessed against property owned by any person, or his assigns, from the damages allowed to such person, or his assigns, for the taking or damaging of any property owned by him or his assigns, and shall pay to him or his assigns, or into the court for his or their benefit, or recover from him or them the difference between the damages and the benefits, as the case may be, and in no case shall the city be liable for interest on any award for damages after the same or the excess of the damages over the benefits shall have been paid into court as aforesaid; *provided, however*, that if the ownership of property condemned be in controversy, the amount of the damage assessed for said property, less the benefits deducted as aforesaid, shall be paid into the court for the use of the successful claimant of the property; and *provided*, further, that after such payment to such party or parties, or into court for their benefit, the city may take possession of the property condemned and the improvement may be proceeded with.

Payment into court and interest—appeal after interplea by different claimants: *St. Louis vs. Nelson*, 108 Mo. App. 210.

By Session Laws 1907, p. 118, it was provided that in cities of over 100,000 the city could pay into court the money awarded as damages and take possession of the property and proceed with the improvement contemplated.

If the ownership of the property is in dispute and the city wishes to avoid payment of interest the money should be paid into court. Otherwise the city is required to pay lawful interest for the time subsequent to the ascertainment of the value of the land taken; interest is allowable as in case of any other judgment, and not from the time the city takes possession: *Martin vs. St. Louis*, 139 Mo. 246, 261, with discussion by the court.

Where the ownership of the funds awarded in condemnation is in controversy the city has a right to pay same into court; and when the city is sued for the amount it may file an answer in the nature of interpleader and one claiming to be the owner may enter voluntary appearance and assert his claim: *Hilton vs. St. Louis*, 99 Mo. 199.

Under the charter of 1853 where the title to the land taken for street openings was in dispute between parties, no cause of action against the city accrued until the question of title was determined by the proper court: *Soulard vs. St. Louis*, 40 Mo. 144.

Deduction of benefits from damages: Such provisions as above have been sustained: *State ex rel. vs. Kansas City*, 89 Mo. 34, 40.

Sec. 12. Condemnation of property for particular use.—When it becomes necessary for the city to condemn private property for other and different public uses than those already specified in this article, the Assembly shall pass an ordinance to that effect, which shall set forth the purposes for which said property is required, and to which it shall be especially dedicated. The value and damages of said property shall be ascertained in the same manner as directed in this article in the case of opening streets, and the same shall be paid by the city to the owner or owners of said property.

As to condemnation for water works see Charter, Art. VII, sec. 4.

A public park is such a public use as will authorize condemnation of private property to establish the same: See note to Art. VIII, sec. 1. So a wharf: See cases in head note* to Chapter 10 of Rev. Code.

WATER AND GAS PIPE CONNECTIONS.

Sec. 13. Board of Public Improvements to regulate.—The Assembly shall provide by ordinance, that all connections with water or gas pipes shall be made subject to such regulations as the Board of Public Improvements may, from time to time, establish, and that before any such connections are made a permit shall be procured from said board.

For ordinances regulating water pipe connections see Rev. Code, secs. 2504-2527 inclusive; as to gas pipe connections see Rev. Code, secs. 336, 898, 912-913, 163. Laying of water pipe see Charter, Art. VII, sec. 5.

CONSTRUCTION OF STREETS, BOULEVARDS AND ALLEYS.

Sec. 14. Ordinances for improvements of streets, etc., to originate with B. P. I.—Board to designate day for public meeting to consider improvements—notice, contents and time of publication—remonstrances against improvement, time of filing, etc., and action of Board thereon—two-thirds vote will overrule—Board to prepare and report to Assembly, ordinance, with reasons, in event of remonstrance—majority vote of Board sufficient in absence of remonstrance.—No ordinance for the construction or reconstruction of any street, ave-

nue, boulevard, alley or public highway of the city, shall be passed unless recommended by the Board of Public Improvements, as hereinafter provided. The Board shall designate a day on which they will hold a public meeting to consider the improvement of any designated streets, avenues, boulevards, alleys or public highways by grading or regrading, by constructing or reconstructing, by paving or repaving the roadway, including cross-walks and intersections, and shall give two weeks' public notice, in the papers doing the city printing, of the time, place and matter to be considered, stating in such notice the kind of material and manner of construction proposed to be used for the wearing surface of such improvement, naming more than one kind of material or manner of construction, if the Board deems it advisable so to do, and also the class of specification and plan for such work, which specification and plan shall be approved by said Board, and filed in its office. If within fifteen days after such public meeting, the owners of the major part of the area of the land made taxable by this article for such improvement, shall file in the office of the Board of Public Improvements their written remonstrance against the proposed improvement, or against the material or manner thereof, the Board shall consider such remonstrance, and if said Board shall, by a two-thirds vote, at a regular meeting, approve of the improvement, material or manner remonstrated against, they shall cause an ordinance for the same to be prepared and report the same with the reasons for their action and the remonstrance to the Assembly. If such majority fail to remonstrate within fifteen days or shall petition the Board for the improvement, said Board may by a majority vote approve the same, and shall cause an ordinance to be prepared and reported to the Assembly therefor.

See note at end of this section.

Board may provide that work be guaranteed and kept in repair for term of years.—In all cases the Board may include in such ordinance a provision that the work and material must be guaranteed and kept in repair by the contractor doing the work for a term of years to be specified in such ordinance.

See note at end of this section.

Special taxes to be levied and assessed according to frontage and area, appointment.—Special taxes for the improvements of streets, avenues and public highways shall be levied and assessed as follows: The total cost of grading and preparing the roadbed for the superstructure, placing foundation, curbing, guttering, roadway paving and cross-walks for the street embraced in the improvement, including all intersections of streets and alleys, shall be ascertained, and one-fourth thereof shall be levied and assessed upon all the property fronting upon or adjoining the improvement, in the proportion that the frontage of each lot so fronting or adjoining bears to the total aggregate of frontage of all lots or parcels of ground fronting upon or adjoining the improvement, and the remaining three-fourths of the cost so ascertained shall be levied and assessed as a special tax upon all the property in the district to be defined and bounded as hereinafter provided, in the proportion that the area of each lot or parcel of ground or the part of such parcel of ground lying within the district bears to the total area of the district, exclusive of streets and alleys.

See note at end of this section.

Benefit districts for special taxation established, method.—The districts herein referred to shall be established as follows: A line shall be drawn midway between the street to be improved and the next parallel or converging street on each side of the street to be improved, which line shall be the boundary of the district, except as hereinafter provided, name-

ly: If the property adjoining the street to be improved is divided into lots, the district line shall be so drawn as to include the entire depth of all lots fronting on the street to be improved. If the line drawn midway as above described would divide any lot lengthwise or approximately lengthwise, and the average distance from the midway line so drawn to the nearer boundary line of the lot is less than twenty-five feet, the district line shall in such case diverge to and follow the said nearer boundary line. If there is no parallel or converging street on either side of the street to be improved, the district lines shall be drawn three hundred feet from and parallel to the street to be improved; but if there be a parallel or converging street on one side of the street to be improved to fix and locate the district line, then the district line on the other side shall be drawn parallel to the street to be improved and at the average distance of the opposite district line so fixed and located. Provided that if any property in a district established as herein provided is not liable to special assessment, the city shall pay the proportion of cost of the improvement which would have been assessed against such property. All of the property in the lots, blocks or tracts of land lying between the streets to be improved and the district lines established as above specified, shall constitute the district aforesaid.

See note at end of this section.

Special taxes for construction of sidewalks, apportioned by front foot rule.—The cost of construction of all sidewalks shall be apportioned as follows: The grading of all sidewalks, and the total cost of construction or reconstruction, paving or repaving, including the cost of preparing the ground for the superstructure, placing foundation and the wearing surface of all sidewalks and necessary intersections, shall be levied and assessed as a special tax upon each lot or parcel of ground abutting the sidewalk so constructed, reconstructed, paved or repaved in the proportion that the front feet of each lot or parcel of ground so abutting such sidewalk bears to the total linear feet of all the property abutting the improvement, and shall be collected as hereinafter provided.

See note at end of this section.

Terms “reconstruction” and “repaving” construed—partial improvements by reconstruction and repaving permitted—contracts for improvement of sidewalks considered distinct from those of streets, etc.—culverts and partial grading of streets.—The term (s) “reconstructing” and “repaving” as herein employed, shall be construed to give full power and authority to reconstruct or repave by removing the foundation, curbing, guttering, and wearing surface of the roadway paving, or only such portion of any or all thereof as the ordinance may prescribe, and thereafter from time to time, such street may be additionally improved if so ordered, by ordinance, and the cost of the additional improvement assessed as a special tax in like manner and to the same effect as the original improvement; and *provided, further*, that the roadway of streets, avenues, boulevards or public highways may be improved as herein provided, irrespective of sidewalks and the contracts therefor shall be deemed separate and independent of the contracts for the improvement of sidewalks. *Provided*, that nothing in this section shall be construed to prevent the city from constructing culverts and partially grading streets, to make them passable in advance of their improvement, at the expense of general revenue, or by the labor of prisoners in the workhouse.

See note at end of this section.

Special taxation for improvement of alleys.—The total cost of grading, regrading, preparing the roadway for all the superstructure, placing

foundation and roadway paving of all alleys, shall be levied and assessed as a special tax upon all lots in the block in which the alley is located in the proportion that the area of each lot in such block afforded access by such alley bears to the total area of all the lots in such block so afforded access, and shall be collected as hereinafter provided.

See note below.

"Lot" defined.—The word "lot" as used in this section, shall be held to mean the lots as shown by recorded plats of additions or sub-divisions, but if there be no such recorded plat, or if the owners of property have disregarded the lines of lots as platted, and have treated two or more lots or fractions thereof as one lot, then the whole parcel of ground, or lots so treated as one, shall be regarded as a lot for the purposes hereof.

Amendment: This section is an amendment passed at the charter election of Oct. 22, 1901.

Ordinance provisions upon street constructions and repairs (and preventing obstructions), see Rev. Code, Chap. 12, Art. 2, secs. 884-940; see also as to duties of B. P. I. recommending ordinances R. C., secs. 1913, 1919; and what conditions to be contained in contracts let by board R. C., 270, 1919 *et seq.*

For distinction between exercise of eminent domain by taking property for a public use such as a street, and the exercise of the taxing power by raising funds to pay for property so taken; and also for distinction between issuance of tax bills for benefits because of street openings, and tax bills for public improvements, see note to sec. 2 of this article; see also *Keith vs. Bingham*, 100 Mo. 300; *St. Louis vs. Bus*, 159 Mo. 9, 12; *Burgess, J., in Heman Const. Co. vs. Wabash* (Sup. Ct. July 2, 1907, not at this writing reported).

As to the strictness with which the legal conditions precedent to imposition of special taxation for street construction, etc., and the contract provisions, must be complied with, see in connection herewith note to sec. 25 of this article; as to same respecting street openings and benefit assessments therefor, see note to secs. 1 and 2 of this article.

The validity of this section (14) was attacked as being unconstitutional on a number of grounds but it was sustained as valid in all respects: *Meier vs. St. Louis*, 180 Mo. 391, 408, and cases cited.

Special assessments for public improvements are not referable to the power of eminent domain, but are referable to the taxing power and sustained thereunder: *Meier vs. St. Louis*, 180 Mo. 391, 408; *Independence vs. Gates*, 110 Mo. 374, 380 (the court pointing out that this species of taxation cannot be defended on logical grounds, but is upheld as a matter of law); *Keith vs. Bingham*, 100 Mo. 300; *Farrar vs. St. Louis*, 80 Mo. 379 (with a review of the prior cases, the court holding that the city "might adopt any method in apportioning the cost which the legislature could adopt," p. 393). In holding such special taxation valid, *Burgess, J., in Heman Const. Co. vs. Wabash Ry.*, (Sup. Ct. July 2, 1907, not at this writing reported) says: "While a distinction is made between local assessments and taxes levied for general revenue purposes, in that an assessment for a local proceeding is not a tax within the meaning of the constitutional provision for uniformity of taxation, it is in a sense a tax, not however for the purpose of sustaining the government, but imposed upon individual property upon the theory that such property receives a special benefit different from the general one which the owner enjoys in common with others; in other words an assessment for benefits."

What property is subject to special taxation: State constitutional provisions on taxation are held to be inapplicable to special taxation: *Meier vs. St. Louis*, 180 Mo. 391, 408; *Farrar vs. St. Louis*, 80 Mo. 379 (reviewing the cases); *St. Joseph vs. Owen*, 110 Mo. 1. c. 455; *Adams vs. Lindell*, 72 Mo. 198; see cases cited in *Barber Asp. Co. vs. St. Joseph*, 183 Mo. 1. c. 458; *Heman Const. Co. vs. Wabash R. R.* (Sup. Ct. in banc, July 2, 1907, not yet reported).

Hence the compensation clause under eminent domain for property taken, uniformity clause, taxation according to value clause, etc., do not affect such legislation: See cases cited above, especially *Meier vs. St. Louis* (uniformity clause, etc.), *Keith vs. Bingham* (eminent domain and compensation inapplicable); *Heman Const. Co. vs. Wabash*, *supra* (uniformity clause, etc.)

Constitutional provisions of exemptions from taxation do not apply to special taxation: *Clinton vs. Co.*, 115 Mo. 557.

Statutory exemption of a company or association from "all taxes" does not include exemption from special assessments: *Sheehan vs. Good Samaritan Hosp.*, 50 Mo. 155; *State ex rel. vs. Kansas City*, 89 Mo. 34, 39; *Railroad vs. Decatur*, 147 U. S. 190.

Church property is subject to it as any other: *Lockwood vs. St. Louis*, 24 Mo. 20.

The city cannot enter into an agreement that property shall not be subject to special taxation; such agreement is void: *Vrana vs. St. Louis*, 164 Mo. 146.

Being "a public highway" does not exempt railway property: *Nevada vs. Eddy*, 123 Mo. 546, 560. *Heman Const. Co. vs. Wabash R. Co.* (Sup. Ct. in banc, July 2, 1907, not at this writing reported); see also *Railroad vs. Decatur*, 147 U. S. 190.

It was held by the court of appeals that the lien could not be charged against the abutting right of way of a railroad company (*Sweeney vs. Railroad*, 54 Mo. App. 265. See also *Bank vs. Haywood*, 62 Mo. App. 265) but the Supreme Court in *Heman Const. Co. vs. Wabash R. Co.*, *supra*, expressly overruled that case and holds that the railway property is subject to special taxation like any other. At the last session of the legislature an act was passed making the railroad property liable to special taxation in cities as in case of other property and persons: *Session Laws 1907*, pp. 92-93.

So in case of Burial Grounds, *Laws 1907*, p. 86.

But public property, held for public uses, is not subject to a special tax, since it cannot be held therefor, except in so far as the law making power so designates: *St. Louis vs. Brown*, 155 Mo. 545, 560; *Barber Asp. Co. vs. St. Joseph*, 183 Mo. 451, 455.

The provisions of the U. S. Constitution are generally not applicable to protect against special taxation: *French vs. Barber Asp. Co.*, 181 U. S. 394, reviewing the prior cases in that court, and affirming s. c. 158 Mo. 534, and explaining and interpreting the case of *Norwood vs. Baker*, 172 U. S. 269. In the last case (subject to the later modification as explained by the U. S. Supreme Court) the limits were pointed out beyond which the courts would annul special taxation as void for unconstitutionality where same was unreasonably oppressive in its operation. See vigorous dissenting opinions as well as majority opinions in both the above cases in U. S. Supreme Court. The limitations put on the *Norwood-Baker* case have been followed in subsequent decisions.

A law is not unconstitutional because it makes it possible that the assessment for benefits is greater than the benefits can possibly be: *Railroad vs. Barber Asp. Co.*, 197 U. S. 430, 433.

Front foot tax under former provisions upheld: *Paving Co. vs. Peck*, 186 Mo. 506, 515-516; *Paving Co. vs. Munn*, 185 Mo. 552, 563 (Kansas City); *French vs. Barber Asphalt Co.*, 181 U. S. 324, affirming s. c. 158 Mo. 534; *Heman vs. Gilliam*, 171 Mo. 258, 264; *Farrar vs. St. Louis*, 80 Mo. 379, and cases cited.

Under the new charter amendment only one-fourth of the entire cost is assessed according to the ground fronting or adjoining on the improved street; this includes all lots abutting the improved street, whether the latter be the main street upon which they "front," or a side street which they "adjoin," and the pro rata is independent of the depth of the lot: *Collier Est. vs. Paving Co.*, 180 Mo. 362, 374.

Area district: The validity of both the front foot and area district is settled beyond question: *Collier Estate vs. Paving Co.*, 180 Mo. 362, 374; *Prior vs. Const. Co.*, 170 Mo. 349, 448, and cases cited. *Farrar vs. St. Louis*, 80 Mo. 379, 393 (holding that the city "might adopt any method in apportioning the cost which the legislature could adopt"); *St. Joseph vs. Farrell*, 106 Mo. 437.

The benefit district, under the new charter provisions, and the method of ascertaining same, has received a full and elaborate discussion in the case of *Collier Est. vs. Western Pav. Co.*, 180 Mo. 362, decided by the court in banc; the court points out the general midway line rule to be observed under the new provisions and under what conditions the same is altered by the exception thereto made.

The words "fronting," "adjoining" and "abutting" as used in the amendment, are not synonymous: *Collier's Est. vs. Paving Co.*, *supra*.

And in the exception to the "midway line" in the charter which provides that "if the property adjoining the street to be improved is divided into lots, the district line shall be so drawn as to include the entire depth of all lots *fronting* on the street to be improved," etc. The words "fronting on the street to be improved" refer only to the street on which the buildings *front*: *Collier Est. vs. Paving Co.*, 180 Mo. 362; *Meier vs. St. Louis*, 180 Mo. 362, 410 (the court observing that it did not modify the case of *Wolfert vs. St. Louis*, 115 Mo. 139, in a case where applicable).

Definition of "Lot": *Collier Est. vs. Paving Co.*, 180 Mo. 362.

The benefit district for platted lots (under the new charter) which lots end on the midway line, extends only to such midway line, although the owner disregarded the lot lines and for residence purposes use them as one lot extending beyond the midway line and from street to street: *State ex rel. vs. Paving Co.*, 183 Mo. 230; *Collier Est. vs. Paving Co.*, 180 Mo. 362.

Where the platted lots extend beyond the midway line the benefit district should include them to their entire depth, deviating to that extent: *State ex rel. vs. Paving Co.*, 183 Mo. 230.

Where the tract fronting the street is unplatted (or if so, the platting is unrecorded) only that part between the improved street and the midway line to the next parallel street should be included: *State ex rel. vs. Paving Co.*, 183 Mo. 230; *Collier Est. vs. Paving Co.*, 180 Mo. 362; *Meier vs. St. Louis*, 180 Mo. 391.

Under the old provision a judgment declaring liens against two lots, in aggregate, where suit brought on two bills against two different lots belonging to same person, is erroneous: *Brockschmidt vs. Cavender* (memo. opin.) 3 Mo. App. 568.

And if several contiguous lots are treated as one lot the assessment is void and will not authorize a separate judgment as to each or against the whole: *Christian vs. Taussig*, 8 Mo. App. (memo. opin.) 602.

Unless the two lots are used as one in which case they may be treated as one lot in assessing special tax bills against them, whether improved or not: *Loevy vs. Const. Co.*, 64 Mo. App. 430; *Hill O'Meara vs. Sessinghaus*, 106 Mo. App. 163, and cases cited.

Actions on special tax bills, essentials thereof and incidents thereto, etc., see notes to sec. 25 of this article.

The notice to the property owners of the proposed meeting of the board is sufficient when naming a day, hour, and place of meeting for the purpose of considering the matter of reconstructing with asphaltum certain designated streets, even though a particular kind of asphaltum had already been determined on: *Verdin vs. St. Louis*, 131 Mo. 26, 81 *et seq.*; see *Sherwood, J.*, on p. 158 *et seq.*

The notice to the property owners of the material to be used is sufficient, if the published notice refer to the specifications on file in the office of the board: *Swift vs. St. Louis*, 180 Mo. 80, 96.

A notice required to be published a certain number of days may include Sundays: *Barber Asph. Co. vs. Muchenberger*, 105 Mo. App. 47; *Clapton vs. Taylor*, 49 Mo. App. 117, 126; *Curtice vs. Schmidt* (Sup. Ct., March, 1907) 101 S. W. 61.

Notice of the letting, see note to sec. 27 of this article.

Owner concluded to dispute benefit or necessity of work: Where the taxing district is fixed by valid legislation, as is also the apportionate of the cost, the owner of the property taxed cannot be heard to contend in court that his property was not in fact benefited, that being a legislative question: *Meier vs. St. Louis*, 180 Mo. 391, 409, and cases cited. To same effect: *Prior vs. Construction Co.*, 170 Mo. 439, 451, and cases cited. (See also *French vs. Asphalt Co.*, 181 U. S. 324; *Railroad vs. Barber Asp. Co.*, 197 U. S. 430, 433.)

Nor that there was no *necessity* for the construction or reconstruction of the pavement, that being a legislative question, not reviewable in the absence of

bad faith: *Heman vs. Franklin*, 99 Mo. App. 346; *Skinker vs. Heman*, 148 Mo. 349; *Heman vs. Schulte*, 166 Mo. 409; *McCormick vs. Patchin*, 53 Mo. 33 (holding the power to pave or re-pave is a continuing one to be exercised whenever the city thinks necessary); *Heman vs. Ring*, 85 Mo. App. 231, and cases cited. But as to when the courts will review the legislative action of the municipal assembly and how far, see authorities in note to Art. III, sec. 26, introductory thereto.

Nor in an action on a special tax bill for benefits assessed on account of a street-opening or widening, can the defense be raised that there was no benefit, nor adequate compensation, nor any other question that could have been raised in the original cause; this is *res judicata* as to such matters: See cases on this point in note to sec. 2 of this article.

And where an ordinance is fair on its face, objections as to methods adopted or that the ordinance is void for want of authority of the city, or for fraud or collusion, should be shown in a timely suit for injunctive relief: *Heman vs. Ring*, 85 Mo. App. 231.

Maintenance clause, or work guaranteed and kept in repair by contractor: See notes to next section of this article.

Special taxation for construction of sidewalks: As to general ordinance for width of sidewalks see R. C., sec. 899. The tax bill is not void because the ordinance does not prescribe the width of the walk, if the suit is not for the making thereof. The construction may be done by one contractor and the paving by another. Nor is the tax bill void if the President of the Board does not personally compute, levy and assess the cost, if he signs the tax bill: *Heman Const. Co. vs. Loevy*, 179 Mo. 455 (see s. c. in Court of Appeals: 64 Mo. App. 1. c. 434).

Determination of width of sidewalks cannot be delegated: *Ramsey vs. Field*, 92 So. W. 350 (Kansas City Ct. of App.).

Where the paving is to be done by separate contractors for different work (one for the street, the other for the sidewalk) the tax bills may be issued on the completion of either to that contractor: *Heman vs. Loevy*, 179 Mo. 455.

Special taxation for abatement of nuisances: See Charter, Art. XII, secs. 6, 7; Rev. Code, secs. 666, 667, 669.

Partial completion insufficient: A city cannot partially complete the improvement called for by ordinance and issue tax bills therefor before full completion of the contract: *Independence vs. Gates*, 110 Mo. 374, 383; *Heman Const. Co. vs. Loevy*, 64 Mo. App. 1. c. 437-438 (reversed in 179 Mo. 455 *supra*, because there were two contracts and the bill was issued as to the completed work under the first, as indicated in the preceding paragraph of this note); *McGrath vs. Clemens*, 49 Mo. 552.

But of course this applies to the partial fulfillment of the contract; the city has in its legislative discretion the right to provide for the improvement of such *parts* of a street and at such times, as it sees fit: *Moran vs. Lindell*, 52 Mo. 229; *Stifel vs. McManus*, 74 Mo. App. 558, 562; *Springfield vs. Weaver*, 137 Mo. 1. c. 669. And see authorities cited in note to sec. 1 of this article in how far street improvement is legislative, and how far ministerial.

And that the contractor does not improve the space between railroad tracks, which is a duty imposed by law on the railroad, is no ground to defeat the tax bill: *Farrar vs. St. Louis*, 80 Mo. 1. c. 393; *Bank vs. Hayward*, 62 Mo. App. 550; *Springfield vs. Weaver*, 137 Mo. 650, 668 *et seq.*

So also an imperfect compliance with the contract will not prevent a recovery for the value of the work as rendered but only furnish basis for a reduction: See express provision in section 25 of this article, and note thereto; and as to pro tanto recovery see also note to sec. 15 of this article.

Remonstrance: The provision in the charter provides that in case the owners of the major part in area file a remonstrance a two-thirds vote of the B. P. I. is required to recommend the ordinance, otherwise a majority vote.

Where a remonstrance deprives the city assembly of power it has no jurisdiction to pass on ordinance to improve: See discussion in *Sedalia vs. Montgomery*, 109 Mo. App. 197, certified to the Supreme Court for final decision as being in conflict with the decisions of the Kansas City Court of Appeals decisions in *Sedalia vs. Scott*, 104 Mo. App. 575 and *Knopfe vs. Co.*, 92 Mo. App. 279.

A finding by the B. P. I. (under the St. Louis charter) that a majority of the owners had not signed a remonstrance is not conclusive (though it may be *prima facie* evidence) of such fact, which is jurisdictional to the validity of the ordinance passed in pursuance: *Construction Co. vs. Geist*, 37 Mo. App. 509, 514.

It is not necessary that an owner should sign a remonstrance in person; his authorized agent may sign for him: *Construction Co. vs. Geist*, 37 Mo. App. 509, 514, 515.

An administrator not legally in charge of the real estate cannot sign as a remonstrator: *Sedalia vs. Montgomery*, 109 Mo. App. 197, 220; *Sedalia vs. Scott*, 104 Mo. App. 595, 604.

Sec. 15. Improvement ordinance, requisites—may specify term of years for which work shall be maintained—estimate of cost to be endorsed—street, etc., to be established or dedicated prior to improvement.—All ordinances recommended by said Board shall specify the character of the work, its extent, the material to be used, the manner and general regulations under which it shall be executed, the fund out of which it shall be paid for, and may specify a term of years for which the work shall be maintained by the contractor, and shall be endorsed with the estimate of the cost thereof; *provided*, that no improvement or repairs shall be ordered upon any future street, alley or highway which shall not have been opened, dedicated or established according to the provisions of this charter and law.

This amendment was also adopted at Charter election of Oct. 22, 1901.

For ordinances on this subject, see R. C., secs. 1919, 1920.

The Ordinance.—That an ordinance required to be recommended by the Board of Public Improvements is void if not enacted in that manner, see cases cited in note to sec. 17 of this article.

The power of a city to impose special taxes can only be exercised by ordinance enacted in the manner prescribed by Charter: *Trenton vs. Coyle*, 107 Mo. 193, 196, and cases cited; *Saxton vs. St. Joseph*, 60 Mo. 153.

In the absence of any evidence to the contrary, it will be presumed that the officers acted rightly in passing an ordinance authorizing an improvement, and that the meeting at which it was passed was properly convened: *Rutherford vs. Hamilton*, 97 Mo. 543, 548-549; see as to presumptive regularity in passage of ordinances in general, cases in note to Charter Art. III, sec. 12; as to presumption that the city officers act rightly in case of tax-bills for improvements, see also *Asp. Co. vs. Ullman*, 137 Mo. 568, cited in note to sec. 25 of this article; and as to street opening cases, see secs. 1 and 2 of this article.

While it is true that the Municipal Assembly cannot delegate legislative duties imposed by the charter, an ordinance for street improvements is not invalid because it leaves details of construction to the discretion of the street commissioner or other proper city officers, to whom some discretion must necessarily be left: *St. Louis vs. Swift*, 180 Mo. 80, 91, 96; *Sheehan vs. Gleeson*, 46 Mo. 100, 104; *Moran vs. Lindell*, 52 Mo. 1. c. 231; *St. Joseph vs. Owen*, 110 Mo. 1. c. 455; *Gallaher vs. Smith*, 55 Mo. App. 116; *Bank vs. Woesten*, 147 Mo. 1. c. 481-482; *St. Louis vs. Von Phul*, 133 Mo. 1. c. 567.

And it is sufficient if such matters be regulated by general ordinance, in which case the special ordinance need not set such matters forth: *Loevy vs. Construction Co.*, 64 Mo. App. 430, 434 (see s. c. 179 Mo. 1. c. 465); see also *State ex rel. vs. St. Louis*, 56 Mo. 277.

Specifications may in the ordinance be referred to as on file with the proper municipal officer, without being embodied in the ordinance: *Becker vs. Washington*, 94 Mo. 375; *Asphalt Co. vs. Ullman*, 137 Mo. 543, 570, 571; *Dickey vs. Porter*, 901 S. W. 586, 596 (Sup. Ct. March 30, 1907); see also *Swift vs. St. Louis*, 180 Mo. 80, 1. c. 96, applying same principle to the notice by the B. P. I.

But matters of substance requiring legislative discretion are to be determined by the Municipal Assembly and cannot be delegated to other officials: *Sheehan vs. Gleeson*, *supra*; *Ruggles vs. Collier*, 43 Mo. 353 (determining what streets should be paved); *St. Louis vs. Clemens*, 43 Mo. 395; s. c. 52 Mo. 133 (determining the

dimensions of sewers); *King Hill Co. vs. Hamilton*, 51 Mo. App. 120 (determining what material paving shall be made of); *St. Joseph vs. Wilshire*, 47 Mo. App. 125 (material of sewer); but see *Gallaher vs. Smith*, 55 Mo. App. 116 (material of sidewalk at option of contractor). *Ramsey vs. Field*, 92 Mo. App. 350 (Kansas City Ct. App.; width of sidewalks,—but in St. Louis this is determined by general ordinance).

The later charter provisions and decisions have continually enlarged the power of delegation, and this was called attention to even as far back as *State ex rel. vs. St. Louis*, 56 Mo. 277, 281, distinguishing the provisions in force under which *Rugles vs. Collier*, supra, and *St. Louis vs. Clemens*, supra, were decided. See also *Bank vs. Woesten*, 147 Mo. l. c. 481-482; *Gibson vs. Owen*, 115 Mo. 267.

A void ordinance cannot be validated by legislation after the work is done so as to charge the property owners with the improvements thereunder: *St. Louis vs. Clemens*, 52 Mo. 133, 144; *Dickey vs. Holmes*, 109 Mo. App. 721, and see cases in note to sec. 28 of this article. Neither can a right of action against the property be taken away by legislation subsequently to the ordinance and contract under which the work was done: *Firth vs. Broadhead*, 7 Mo. App. 563.

Pro Tanto Recovery: Ordinances for improvements should be upheld so far as possible, in cases of partial validity, where the valid and invalid portions are susceptible of segregation, and a partial recovery allowed: *Asphalt Pav. Co. vs. Ullman*, 137 Mo. l. c. 569; *Farrar vs. St. Louis*, 80 Mo. l. c. 393; *Bond, J.*, in *Steffen vs. Fox*, 56 Mo. App. l. c. 23-24, citing *Creamer vs. Bates*, 49 Mo. 523; *St. Joseph vs. Wilshire*, 47 Mo. App. l. c. 133-134; *Neenan vs. Smith*, 60 Mo. 292; *Springfield vs. Weaver*, 137 Mo. 650; *Eyermann vs. Provenchere*, 15 Mo. App. 256, 266; *Prendergast vs. Richards*, 2 Mo. App. 187; *Johnson vs. Duer*, 115 Mo. 366.

And the charter itself recognizes that the owner can only defend for bad or insufficient work by reduction of the bill, and after tendering a just amount for the work done: See the provisions of sec. 25 of this article and note appended thereto.

The ordinance need not contain a provision for advertising for bids: *Bambrick vs. Campbell*, 37 Mo. App. 460, 465.

Guarantee of Contractor to Maintain Pavement in Repair for a certain time: For ordinances, see Rev. Code, secs. 884, 891, also Charter preceding section of this article. Such a clause means that the work shall be of such a quality that it will last for the guaranteed time under the ordinary wear and tear incidental to the use of the street or pavement for the purposes intended, and is not a contract to repair: *Asphalt Co. vs. St. Louis*, 188 Mo. 576; *Barber Asphalt Co. vs. Ullman*, 137 Mo. 543, 566; *Bank vs. Woesten*, 147 Mo. 467, 476; *Barber Asp. Co. vs. Hezel*, 155 Mo. 391; *St. Louis Quarry Co. vs. Frost*, 90 Mo. App. 677, 688; *Allen vs. Labsap*, 188 Mo. 692, 703.

Hence where the contract is between the contractor and the owners, the former cannot recover against the city for injuries to the pavement, and if he repairs the pavement for injuries caused by the city, he is a mere volunteer: *Asphalt Co. vs. St. Louis*, 188 Mo. 576; and hence payment of a tax-bill cannot be avoided because of a clause to maintain in repair on the ground that such provision makes the contract one for repair (which is to be paid by the city): See cases supra; also note to section 18 of this article.

Board Specifies Material to Be Used: The right to select the material of which the paving shall consist rests with the Board; and their action is valid, though a material is selected which is owned or controlled by one concern, or of which the whole supply is in the hands of one applicant, although competitive bidding is thereby practically prevented: *Swift vs. St. Louis*, 180 Mo. 80; *Verdin vs. St. Louis*, 131 Mo. 26; *Barber Asp. Co. vs. Hunt*, 100 Mo. 22; *Paving Co. vs. Field*, 188 Mo. 182; *Field vs. Paving Co.*, 194 U. S. 618; *Allen vs. Labsap*, 188 Mo. 692, 702. But in the recent case of *Curtice vs. Schmidt*, 101 So. Wes. 61, 66-68, decided March 28, 1907, the Supreme Court manifested a distinct tendency not to extend the doctrine of those cases, and held that where the designation is of a material not of such peculiarity as to be manufactured by one concern, then a designation of that material "as manufactured by" a particular concern named, is void because stifling competition and throwing open the door to favoritism; although the court recognizes the doctrine of the former cases to the extent that "if there is a patented article, or an article not patented but in the hands of one person or company, which article is necessary for the public improvement, and there are no other persons having the same general character of material which could

be brought into competition, then the municipality is not forced to use other clearly inferior material on account of the requirement for competitive bidding."

Estimate of Cost: Where a statute or charter requires an estimate of the cost of the contemplated work, such estimate is a pre-requisite to the letting, and it has been said that the contract must be within the price: *De Soto vs. Showman*, 100 Mo. App. 323, 326, citing several authorities; see also as to the necessity and purpose of an "estimate" and what is an "estimate": *Booneville vs. Rogers*, 101 So. W. 1120 (K. C. Court. App., May 6, 1907).

But as to the effect of the provision in the St. Louis Charter, see *Sherwood, J.*, dissenting, in *Verdin vs. St. Louis*, 131 Mo. loc. cit. 133; and in *Hill vs. Swingley*, 159 Mo. 45, 48, referring to sec. 28 of this article, requiring every ordinance for improvements to contain a specific appropriation "based upon an estimate of cost, to be endorsed," etc., the court says that "it is very apparent that that clause refers only to contracts for work to be paid for out of the public treasury. The limit that is put on the price to be paid is the amount of the specific appropriation, not the estimate submitted," and held that the section did not apply to work to be paid for by special tax against private property affected. See to same effect, *Seibert vs. Cavender*, 3 Mo. App. 421.

Where after introduction an ordinance is submitted to the Board of Public Improvements by the Assembly with certain recommendations, which are adopted by the Board and the ordinance returned to the Assembly so amended, but without any alteration of the original estimate of cost by the Board, and as so re-submitted is passed by the Assembly, the original endorsement is sufficient: *Bambrick vs. Campbell*, 37 Mo. App. 460. Nor is a separate estimate required for each street, where a number of streets are included in one ordinance: *Seibert vs. Cavender*, 3 Mo. App. 421. But where the original ordinance is amended so as to include paving of other streets at increased cost and no new estimate is submitted, the ordinance so passed is void as is the tax-bill under it: *Kinealy vs. Gay*, 7 Mo. App. 203.

The Proviso that the highway must have been opened, dedicated or established, according to the provisions of "this Charter and law," comprehends both statutory and common law, and does not exclude a common-law dedication of a street: *McGinnis vs. St. Louis*, 157 Mo. 191, 193.

Sec. 16. Vote of Assembly on improvement bills.—Upon the recommendation of any ordinance by the Board of Public Improvements, the Assembly shall have the power, when such ordinance shall be accompanied by a remonstrance as hereinbefore provided, by a vote of two-thirds of the members elect of each house, and in all other cases by a vote of a majority of the members-elect of each house, to pass such ordinance, and order the making of such improvement.

As to presumption that an ordinance has been enacted according to the legal requirements, see notes to preceding section; and as to such presumption of regularity in general, see cases in note to Art. III, sec. 12, showing that where two-thirds vote is required it will be presumed to have been so passed; but see also note to next section herein below.

Sec. 17. All ordinances for public work to be recommended by the Board of Public Improvements.—The Board of Public Improvements shall recommend to the Assembly all ordinances for the establishment or change of grade of streets, avenues, boulevards, public highways and alleys, and also for the construction or reconstruction of streets, avenues, boulevards and public highways, and for the maintenance, repairing, lighting, cleaning and sprinkling thereof; for the construction or reconstruction, maintenance, repairing, lighting and cleaning of alleys; for the construction or reconstruction, maintenance and repairing of sidewalks; for the construction or reconstruction and the repairs of sewers, and all ordinances for the doing of all other public work of every nature and kind which is required by this Charter, or by ordinance, to be done under the supervision of said Board, or of any of the members thereof.

Where the recommendation of the Board of Public Improvements is required, it is jurisdictional, and an ordinance without it is invalid: *St. Louis vs. Franke*, 78 Mo. 41; *St. Louis vs. Gleason*, 93 Mo. 33, 37 (both these cases under superseded charter provisions, but the principles are still applicable).

And where a majority of the owners remonstrate, it was held (when in such case a unanimous recommendation was required by the then charter) that an ordinance was void, where the board erroneously found that a majority had not remonstrated; such fact could be shown as being jurisdictional: *Const. Co. vs. Geist*, 37 Mo. App. 509.

The ordinance is valid, although after its introduction the Assembly submits a suggestion for amendment to the Board, which is adopted and embodied in the ordinance by the Board, the ordinance being returned to the Assembly with recommendation for passage without altering the endorsement of estimated cost, and thereupon passed: *Bambrick vs. Campbell*, 37 Mo. App. 460, 463.

Elevation of streets and alleys, how determined: See note to sec. 1 of this article.

Sec. 18. Apportionment of cost of improvement—portion paid by the city and property owners respectively—no limit to special taxation.—The cost of construction or reconstruction of all the foregoing improvements within the city shall be apportioned as follows: The regrading of streets and sidewalks to conform to the change of grade thereof, the lighting of boulevards, alleys, streets, avenues and public highways, and the repairs of streets, avenues and public highways, shall be paid out of the general revenue of the city. The grading, improving, constructing, reconstructing, maintaining, repairing, cleaning and sprinkling of all boulevards shall be paid by special tax bill as in this article hereinbefore provided; the grading, regrading, preparing the roadway for the superstructure, placing foundation and roadway, paving of all alleys, shall be paid by special tax bill as hereinbefore in this article provided; the construction, reconstruction, paving or repaving, including the cost of preparing the ground for the superstructure, placing foundations, and the wearing surface of all sidewalks, shall be paid by special tax bills as hereinbefore in this article provided; the grading, preparing of the roadbed for superstructure, placing foundations, curbing, guttering, wearing surface of the roadway paving, cross-walks, including all intersections of streets, avenues, highways and alleys, shall be paid by special tax bill in the manner hereinbefore in this article provided. The repairs of all alleys and sidewalks shall be charged upon the adjoining property as a special tax, and shall be collected and paid as hereinafter provided.

This amendment, also, was adopted at the election on Oct. 22, 1901, submitted under ordinance 20444.

The validity of special taxation, though not sustainable on any logical ground, is no longer to be questioned: See cases cited in note to sec. 14 of this article.

By the present amendment no limit is placed to the amount chargeable by way of special taxation on the property owner, whereas formerly the limit was 25 per cent of the assessed value. Reference to decisions upon the old law on this point are therefore omitted. It is also to be observed that, differing from the former law, *repairs*, for alleys, sidewalks and boulevards are now paid for by special tax, as well as construction work, etc. On this and other points the changes must be borne in mind in determining the application of the cases cited below.

Repairs of Streets to Be Paid by City: For ordinances on repairs, see R. C., sec. 890, and following.

A contract providing for special deposit by a contractor to maintain his construction work for a certain period is not a contract for repairs (which is required to be paid out of general revenue), but is to insure fidelity for the character of the work in the first instance, and a special tax bill cannot be avoided on that ground: See *Allen vs. Labsap*, 188 Mo. 692, 703, and numerous cases cited in note to sec. 15 of this article.

That such a guarantee of maintenance for a certain number of years in a contract for construction is not a contract for repair, but only a guarantee of the quality of the work, see cases cited in note to sec. 15 of this article.

Distinction between rules applicable to streets and those applicable to alleys and sidewalks (before amendment): *Skinker vs. Heman*, 148 Mo. 349, 359, reciting the charter provisions before the present amendment.

As to what is to be considered as repairs and what reconstruction, see *Farrell vs. Rammelkamp*, 64 Mo. App. 425, 429; *Perkinson vs. Schnaake*, 108 Mo. App. 255, and cases *infra*.

Repairs must be paid by the city and the city cannot shift the cost on the abutting owner by calling the work reconstruction: *O'Meara vs. Green*, 25 Mo. App. 198; and abutting owners are not liable for repairs where the streets were constructed before the locality was taken into the city limits: *O'Meara vs. Green*, 16 Mo. App. 118.

Nor can there be a recovery on a special tax bill for repairs (allowable under former charter provision), where the work was reconstruction: *Farrell vs. Rammelkamp*, 64 Mo. App. 425, 428; the latter requiring an ordinance to authorize the work, but repairs being permissible under the order of the street commissioner on notice to the owner: *Ritterskamp vs. Stifel*, 59 Mo. App. 510. (See in connection herewith *R. C.*, secs. 904 to 910.)

Under the old provision which provided that the cost of "paving, guttering and materials . . . shall be charged upon the adjoining property," etc., it was held that where four lots were sought to be charged in one tax-bill, one of which adjoins the improved street and all four fronting on a cross street, an aggregate assessment cannot be made against all the lots, unless it be shown that all were used as one lot by the owners: *Paving Co. vs. Peck*, 186 Mo. 506. Under that provision (before amendment) there was full authority to charge the cost of paving *alleys* against the adjoining property: *Heman vs. Gilliam*, 171 Mo. 258, 264.

As to cost to intersections of streets, and for "grading," "cross-walks" and "curbing," see *Gibson vs. Kayser*, 16 Mo. App. 404; intersections: See *Allen vs. Krenning*, 23 Mo. App. 561.

NUISANCES—CHANGE OF GRADE.

Sec. 19. Nuisances caused by public works to be abated by city—damages by change of grade to be paid by city.—Whenever a nuisance is caused upon private property by any work or improvement done by and for the city, the same shall be abated at the expense of the city; and whenever a grade of the street is fixed by the city and an improvement shall have been made in conformity thereto, if the city shall thereafter alter such grade to the damage of such improvement, the city shall indemnify the owner of the improvement for such damage.

Nuisances: As to the powers of the city where the nuisance is not caused by the city, but by third persons, see Charter Art. III, sec. 26, clause 6; Art. XII, secs. 6, 4, 3; Rev. Code, Chap. XI, Art. 12 (secs. 584-689) and notes thereto.

For statutory provisions respecting change of grade, see *R. S.* 1899, secs. 6238 et seq., which are set out herein, with notes, under "Laws Specially Applicable to St. Louis," in Chap. 32, secs. 585-590.

Change of grade: Prior to the constitution of 1875 the city in the legitimate exercise of its powers could change the grade by ordinance without being liable for consequential damages, unless the injury could be shown to have resulted from the negligent or improper manner in which the work was done: *St. Louis vs. Gurno*, 12 Mo. 415; *Taylor vs. St. Louis*, 14 Mo. 23; *Hoffmann vs. St. Louis*, 15 Mo. 651. (A contrary decision was made in *Thurston vs. St. Joseph*, 51 Mo. 510, but the former rule was again followed in later cases); *Schattner vs. K. C.*, 53 Mo. 162; *Imler vs. Springfield*, 55 Mo. 119; *Wegman vs. Jefferson*, 61 Mo. 57; *Stewart vs. Clinton*, 79 Mo. 603; and see dicta in the cases below cited.

To uproot this doctrine the Constitution was so amended in 1875 that compensation was required when property was damaged as well as taken for public use, and since that time it is settled law that when property is damaged by estab-

lishing the grade of a street, or by raising or lowering the grade already established, it is damaged for public use within the meaning of the Constitution: *Hickman vs. Kansas City*, 120 Mo. 1. c. 116; *Werth vs. Springfield*, 78 Mo. 107, 110; *Householder vs. K. C.*, 83 Mo. 488; *Clemens vs. Ins. Co.*, 184 Mo. 1. c. 53.

And it is also well settled that the constitutional provision is self-enforcing, and although the legislature may have enacted no law providing for a mode for ascertainment and payment of the compensation provided for, resort may be had to any common law action affording an appropriate means of redress: *Hickman vs. Kansas City*, 120 Mo. 110, 117; *Householder vs. K. C.*, 83 Mo. 488; *Keith vs. Bingham*, 100 Mo. 300; *Sheehy vs. Cable Co.*, 94 Mo. 574, 578 *et seq.*

And a statutory remedy purporting to be an exclusive remedy must, in order to be exclusive, be commensurate with the constitutional right and the remedies which by force of the constitution the owner is entitled to for his protection: *Hickman vs. Kansas City*, 120 Mo. 110, 118-119; *Markowitz vs. Kansas City*, 125 Mo. 485.

Under the statutes (see present statutes cited at beginning of this note), the city may institute proceedings for assessment of damages and benefits on change of street grade, without the consent of the owners of the property affected: *St. Louis vs. Lang*, 131 Mo. 1. c. 421.

As to what is a final judgment in such a proceeding, and that final judgment cannot be rendered as to some and not others on the commissioner's report, so as to allow an appeal, see *St. Louis vs. Nelson*, 169 Mo. 461.

A railroad company is as much liable as a city for damages in causing a change of grade: *Sheehy vs. Cable Co.*, 94 Mo. 574, 579.

In an action to enforce a special tax-bill for improvements the defense cannot be made by the property owner that he has not been paid for the damages caused by the change of grade. The first is an exercise of the taxing power, the latter of eminent domain. Although the city may be liable under the constitution for an improper exercise of the power of eminent domain, yet the defense cannot be made in the tax suit: *Springfield vs. Baker*, 56 Mo. App. 637, 640, quoting and following *Keith vs. Bingham*, 100 Mo. 306. See as to this distinction, cases in note to sec. 2 of this article.

Overflows on private land resulting from inadequate sewer is not taking or damaging property for public use: *Gulath vs. St. Louis*, 179 Mo. 38, 56.

Where the property of a citizen is not taken, and his proprietary rights are not disturbed, but the damages to his property is consequential, due to a change in the grade, the constitutional provision prohibiting taking or *damaging* of private property without just compensation, does not entitle the owner to damages before the work is done, and he is not entitled to an injunction until the same are ascertained and paid: *Clemens vs. Ins. Co.* 184 Mo. 46. See further as to when an injunction will lie, cases cited in the opinion; also *MacMurray-Judge, Iron Co. vs. St. Louis*, 138 Mo. 608.

Although an abutting property owner is entitled under the constitution to be compensated for injury to his property before the improvement can be made, and may maintain injunction to enforce his right, yet if the conditions are such that the ordinance providing for the improvement, though unrepealed, cannot well be carried into effect, the injunction will not go, though the plaintiff may have apprehensions, if they are not really well grounded: *Lester Realty Co. vs. St. Louis*, 169 Mo. 227.

While it is true that the owner, since the amendment in the constitution of 1875, is entitled to compensation not only when his property is taken for public use, but also when it is damaged, yet the ground of recovery is his easement or property interest in the street; and the plaintiff, in order to recover, or to bring himself within the amendment, must show a special and peculiar injury to his property, or some easement connected therewith, different in kind from that of others: *Clemens vs. Ins. Co.*, 184 Mo. 46, 54, and cases there cited; *Van De Vere vs. Kansas City*, 107 Mo. 83; *Rude vs. St. Louis*, 93 Mo. 408; *Knapp Stout & Co. vs. St. Louis*, 153 Mo. 572; see also (where a street railroad was constructed): *Ruckert vs. Grand Ave. Ry.*, 163 Mo. 1. c. 278; and (steam railroad) *De Geoffrey vs. Merchants Bridge*, 179 Mo. 705 *et seq.*

In a suit by an abutting owner for damages caused by changing the grade, whether the change be from the natural to an artificial or from one artificial to

another, the measure of damages is the difference in value of the property before and after the change of grade, less any special benefit not common to all property in the neighborhood, caused by such change of grade; and this is the rule whether the cost of the improvement be paid by the city or taxed as benefit assessments against the abutting property; the cost of the improvement taxed against the abutting property should not be considered: *Investment Co. vs. St. Joseph*, 191 Mo. 459.

As to measure of damages where access to a highway is cut off, being the difference in market value before and after such cut off, see also: *Slattery vs. St. Louis*, 120 Mo. 183; *Chouteau vs. St. Louis*, 8 Mo. App. 48.

The benefits to be deducted from the damages sustained by the landowner by the taking or damaging his property is only the direct and peculiar benefit that would result in particular to his tract, and not the general benefit that his lands would derive in common with the lands of other owners in his neighborhood: *Cole vs. St. Louis*, 132 Mo. 633, 640.

The city is liable for damages in a material change in the grade from the natural surface: *Investment Co. vs. St. Joseph*, 191 Mo. 459; *Cole vs. St. Louis*, 132 Mo. 633, 640, and cases cited; *Davis vs. Ry.*, 119 Mo. 180; *Fred vs. Railway*, 65 Mo. App. 121.

The change of grade need not be the whole width of the road-bed: *Stickford vs. St. Louis*, 7 Mo. App. 217.

Action for damages for changing grade is in nature of trespass; possession alone is sufficient; title need not be shown: *Schrodt vs. St. Joseph*, 109 Mo. App. 627; but see *Clemens vs. Ins. Co.*, 184 Mo. l. c. 56, *et seq.*

City not liable in absence of valid ordinance authorizing such change of grade: *Gardner vs. St. Joseph*, 96 Mo. App. 657; *Clay vs. Mexico*, 92 Mo. App. 611; *Calvert vs. St. Joseph*, 118 Mo. App. 503. And in the absence of an ordinance the officers doing the grading, or assisting or encouraging same, are liable as for trespass: *Reed vs. Peck*, 163 Mo. 333 (proceeding where the only authority to grade was a void resolution, not an ordinance. But a mere technical departure from the mode in which the power to grade is exercised will not discharge the city, at all events not if such ordinance has been, even impliedly, ratified by the corporate authorities: *Schumacher vs. St. Louis*, 3 Mo. App. 297, 298-299.

And an allegation in a petition by a city for assessment of damages for change of grade which alleges the due enactment of an ordinance defining the limits of benefits and damage district affected by a change of grade, inferentially states the passage of an ordinance for the grading of a street in that district, where that would be necessary as a condition precedent to the other ordinance: *St. Louis vs. Lang*, 131 Mo. 412, 420-421.

An abutting owner is not estopped to claim damages from change of grade resulting because of grant of street car franchise because he signed a request for such franchise over the street in question: *Fred vs. Cable Co.*, 65 Mo. App. l. c. 124; nor because the plaintiff, after the grading of the roadbed by the cable company, requests that the grading of the street be finished: *Hickman vs. Kansas City*, 120 Mo. 110, 120.

Damages for change of grade—landlord and tenant: *St. Louis vs. Nelson*, 108 Mo. App. 210.

Damages because of removal of shade trees, when allowed: *Walker vs. Sedalia*, 74 Mo. App. 70. And when not: *Colston vs. St. Joseph*, 106 Mo. App. 714. See also *Scott vs. Marshall*, 110 Mo. App. 178 (condemnation of sidewalk improved by shade trees).

Damages on *condemnation* of property for public use: See note to Charter, Art. VI, sec. 1.

SEWERS.

Sec. 20. **Classification of sewer system—"public," "district," "joint-district" and "private."**—A sewer system is hereby established, which shall be divided into four classes, viz.: "Public," "District," "Joint-District" and "Private" sewers; the classes in any case being determined by the authority of its construction, and the definitions hereinafter specified, irrespective of the area drained, the size, character, or purpose of the sewer.

Public sewers are defined to be those heretofore constructed or acquired under authority of an ordinance, and paid for wholly out of the general revenue. Public sewers hereafter constructed shall be such sewers as the Board of Public Improvements may deem it expedient to establish and construct without creating a sewer district or joint sewer district; and such sewers may be established and constructed at such times, to such extent, of such dimensions and materials and under such regulations as may be provided by ordinance recommended by the Board of Public Improvements, and shall also consist of such branches to sewers already constructed as may be considered expedient by said board; *provided, however*, that no sewer shall be run diagonally through private property when it is practicable to construct the same parallel with the lines of such property, nor shall any public sewer be constructed through private property when it is practicable to construct the same along a street, alley or public highway. An appropriation shall be made to meet the cost of each public sewer from the public revenue. Public sewers may be connected with any other sewer of any class, or with some natural course of drainage.

District sewers are defined to be those constructed or acquired under authority of ordinances, within the limits of an established sewer district, and paid for by special tax assessed upon the property in the district.

Joint-district sewers are defined to be those constructed or acquired under the authority of ordinances uniting one or more districts or unorganized territory, for the purpose of providing main, outlet, or intercepting sewers, for the joint benefit of such districts or territory, and paid for by special taxes assessed upon all the property in such joint sewer district.

Private sewers are defined to be those built with or without permits, paid for by the parties, persons, associations or corporations constructing the same.

This section and those following were amended at the charter election of Oct. 21, 1901, making a material change in the sewer system of the city.

State Law: See in connection with the charter, Laws Mo. 1905, sec. 1-6, set out herein in "Laws Specially Applicable to St. Louis," Chap. 28, secs. 535-549, authorizing Drainage and Sanitary Districts between the city and county.

Charter Authority to construct, keep in repair and regulate the use of sewers: See Art. III, sec. 26, clause 2, and note thereto.

For ordinances respecting sewers in general, see Rev. Code, Chap. 34, secs. 2302 to 2322 inclusive; sewer condemnation proceedings, secs. 876-882 (see also notes to Charter sec. 2 *et seq.* of this article); sewer connections, R. C., secs. 898, 1798, 145, 2314, 2302; permit construction, etc., 2303 and following.

Liability of City for Damages for defective sewers and sewer overflows: See note to clause 2, section 26, Art. III.

Definition and object of sewer in general: Fuchs vs. St. Louis, 167 Mo. loc. cit. 636; (as to importance of drainage of cities to preserve the public health, as a police power, see also New Orl. Gas Co. vs. Drainage Com., 196 U. S. 453, cited in note to clause 2 of sec. 26 of Art. III.)

The classification of sewers under the new charter provision and the right of the city so to classify, is discussed, and the several kinds defined, in Prior vs. Construction Co., 170 Mo. 439. The court, also, in that case shows the difference between the new and former classification. This distinction should be borne in mind in applying the decisions under the former law to the present conditions.

Under the former provisions: Public sewers can be created only by ordinance, not by user alone: Heman vs. Payne, 27 Mo. App. 481, 486.

What are public, district or private sewers prior to present amendment, see *Heman vs. Allen*, 156 Mo. 534, 542; *Hill vs. Swingley*, 159 Mo. 45; *Eyerman vs. Blakely*, 78 Mo. 145.

In how far the municipal assembly must fix the construction, materials, route, dimensions, etc., of a sewer by ordinance and in how far the details thereof may be delegated to the proper officials, see *State ex rel. vs. St. Louis*, 56 Mo. 277, showing that the power of the city in this respect was enlarged by charter amendments so as not to be governed by the decisions in *Murphy vs. Clemens*, 43 Mo. 395 and *Ruggles vs. Collier*, *id.* 375.

And see further, cases on the same subject with respect to street improvements, note to sec. 15 of this article.

Discretion as to location of branch or lateral sewers in B. P. I.: *State ex rel. vs. St. Louis*, 56 Mo. 577; *Eyermann vs. Provenchere*, 15 Mo. App. 1. c. 267-268.

The action of the Board of Public Improvements in accordance with charter authority to recommend creation of private sewer to the Municipal Assembly, which enacts an ordinance in pursuance thereof, is conclusive that such sewer is a private sewer, no matter how beneficial it is to the public: *Heman vs. Allen*, 156 Mo. 534 (affirmed without discussion of this point in 181 U. S. 402). The recommendation of the board and subsequent enactment of the ordinance relieves the contractor from the obligation of inquiring as to the grounds on which the work is done: *Eyermann vs. Provenchere*, 15 Mo. App. 1. c. 270.

The Municipal Assembly, when thereto moved by the Board of Public Improvements, may pass ordinances looking to the construction of sewers, public and district, and the policy of constructing sewers is delegated to them. It is for the Municipal Assembly, acting in the manner prescribed by charter, to say when and where sewers are to be constructed, and the kind, whether public or district. But it cannot by ordinance or otherwise, authorize the construction of a public sewer to be paid for by special assessment, nor authorize a district sewer to be paid for out of the treasury. And the difference between a public and district sewer is not a mere difference in name, but it is a physical fact, so that the assembly cannot authorize what is in fact a public sewer and by merely denominating it a district sewer tax the cost of its construction on the lots in the district named. Such an act would be a fraud and the special tax-bill issued in pursuance of it would be void: *Hill vs. Swingley*, 159 Mo. 45, 49-50.

Courts have no power to issue a mandatory injunction requiring a municipality to construct a sewer in a particular manner or location, irrespective of the exercise of discretion vested by law in the municipal authorities to determine the practicability of the sewer ordered, the availability of taxation for the purpose, and the like matters; the exercise of this authority is primarily vested in the municipality and not the courts: *Vicksburg vs. Waterworks Co.*, 202 U. S. 453, 471-472.

As to special taxation, see in connection with the cases below, also the notes to sections 24-25 and 14-15 of this article, for those points common to streets, alleys, etc., as well as sewers.

Special taxation for the construction of sewers, assessed either according to the area, benefit district, or the front foot rule, is now valid beyond question: *Prior vs. Construction Co.*, 170 Mo. 439, 448; *St. Joseph vs. Farrell*, 106 Mo. 437; *Heman vs. Allen*, 156 Mo. 534, affirmed as *Schumate vs. Heman*, 181 U. S. 402.

The question whether a lot owner is benefited by the sewer so as to make his land taxable therefor, is legislative and he will not be heard to the contrary after the Municipal Assembly has established the district and fixed the rate of benefits without fraud or oppression; and such benefits may be indirect as well as direct to justify the action of the assembly: *Prior vs. Construction Co.*, 170 Mo. 439, 450-451; *Heman vs. Schulte*, 166 Mo. 409; *Heman vs. Allen*, 156 Mo. 534, 544-551, affirmed 181 U. S. 402; *Akers vs. Kollmeyer*, 97 Mo. App. 520, 529. See also *Johnson vs. Duer*, 115 Mo. 366.

But the Municipal Assembly cannot authorize tax-bills by designating a public sewer to be a district sewer, when in fact not such, and the tax-bills are void: *Hill vs. Swingley*, 159 Mo. 45, 49-50.

Area taxation without reference to value of land is valid: *Johnson vs. Duer*, 115 Mo. 366.

Ascertaining assessment: See *Creamer vs. Allen*, 3 Mo. App. 545.

The basis of the work is an ordinance, and a void ordinance cannot be made valid after the work has been done: *Dickey vs. Holmes*, 109 Mo. App. 721; *St. Louis vs. Clemens*, 52 Mo. 133, 144. As to the requirements of an ordinance for public improvements in general, see note to sec. 15 of this article.

Where two lots are used as one property, they may be treated as one in assessing special tax-bill against them, whether improved or not: *Hill-O'Meara vs. Sessinghaus*, 106 Mo. App. 163, and cases cited.

A proper assessment in accordance with the charter is the basis of taxation, and the special tax-bill is void unless grounded on a valid assessment made by the tribunal designated by the charter. As to what is or is not such a compliance under the St. Louis charter, see *Heman vs. Farish*, 97 Mo. App. 393, 401; *Heman vs. Allen*, 156 Mo. 534; also authorities generally in notes to secs. 27 and 14 *et seq.*, of this article. But the special tax-bill need not recite the basis of apportionment: *Dickey vs. Porter*, 101 S. W. 586, 594 (March 30, 1907, Sup. Ct. Kansas City charter).

The ordinance for improvements by sewers should be strictly complied with and construed, but not so strictly that it would defeat its obvious intent: *St. Joseph vs. Landis*, 54 Mo. App. 1. c. 326. See also *Dickey vs. Porter*, 101 S. W. 586, 596 (Sup. Ct., Mar. 30, 1907).

Special tax is not the exclusive remedy of the contractor; there is nothing in the charter preventing the city from enacting that other regulations, such as the payment of the tax before permitting a connection with the sewer, must be observed under its other powers: *Hill vs. St. Louis*, 159 Mo. 159, 167 (upholding an ordinance to that effect, now sec. 2304 of Rev. Code).

Limit of taxation for sewers: There was no limit to special taxation of sewers even before the present amendments: *Heman vs. Wolff*, 33 Mo. App. 200; *Hill vs. Swingley*, 159 Mo. 45.

Sec. 21. District sewers, establishment and construction of—districts may be changed—special taxation for, authorized—repairs and other incidental expenses paid by city—reconstruction of sewers permitted at expense of property.—District sewers shall be established and constructed or acquired within the limits of districts to be prescribed by ordinance recommended by the Board of Public Improvements, and may be connected with a sewer of any class, or with some natural course of drainage. District sewers shall be of such dimensions and material as may be considered necessary and expedient by the Board of Public Improvements, and authorized by ordinance. A sewer district may be sub-divided, enlarged or changed at any time previous to the completion of the construction of the sewers therein. The Municipal Assembly shall cause sewers to be constructed in any district whenever a majority of the property holders, resident therein, shall petition therefor, or whenever the Board of Public Improvements shall recommend it as necessary for sanitary or other purposes. Such sewers shall have all requisite laterals, inlets, manholes and other appurtenances.

As soon as a district sewer, with its inlets, manholes, and other appurtenances is fully completed, the Sewer Commissioner shall cause to be computed the total cost thereof, and certify the same to the President of the Board of Public Improvements, and the President of said Board shall assess it as a special tax against all the lots of ground in the district respectively, without regard to improvements, and in the proportion that their respective areas bear to the area of the whole district, exclusive of the public highway, and shall cause to be issued a special tax bill against each lot in the district, giving the name of the owner thereof, in favor of the contractor, which shall be collected and paid in the manner hereinafter prescribed; *provided*, that the repairs and other incidental expenses of the district sewers shall be paid out of the general revenue. Should the sewers in any sewer district or districts become worn out, or be found inadequate in depth, size or other respect, so as in the opinion of the Board of Public

Improvements to require reconstruction, the Municipal Assembly may, by ordinance, establish sewer districts for such reconstructions, and proceed in all respects as if the territory embraced in such district had never been in a sewer district.

This section is an amendment passed with the preceding section at the election on Oct. 22, 1901.

See note, and authorities cited therein, to the preceding section of this article. See new classification discussed in *Prior vs. Const. Co.*, 170 Mo. 439, cited in said note.

Under the former provisions the city could direct construction of district sewers without a petition from a majority of the property owners or recommendation of the Board of Health: *Creamer vs. Oeters*, 36 Mo. 456; but under the later provisions "the assembly can authorize the construction of sewers in sewer districts, only when a majority of the property holders petition for it, or when the Board of Public Improvements shall recommend it as necessary for sanitary or other purposes, nor can the assembly establish a sewer district except by ordinance as approved by the B. P. I.; when that board approves such an ordinance, the board need not wait until the passage of that ordinance before it shall recommend the construction of a sewer for the district": *Eyermaier vs. Blakely*, 78 Mo. 145, 149-150. Nor is it necessary for the board in its recommendation to state the reasons for which the sewer is necessary; a statement that it is "in accordance with the provisions of the charter" is sufficient: *ibid.*, p. 150.

Under the present charter, still greater authority and latitude is given the board. Before a lien can attach to property in a taxing district for the cost of construction of sewers the Board of Public Improvements must make an assessment of the entire cost against the property liable. But in an action on the tax-bill the failure to so allege in the petition is waived if no objection thereto be taken until after judgment: *Heman vs. Allen*, 156 Mo. 534, l. c. 539-540. See also *Dickey vs. Porter*, 101 S. W. 586, 594 (Sup. Ct., March 30, 1907).

Repairs and other incidental expenses of district sewers must be paid out of the general revenue, hence it would not be competent for the city to regulate the sewers by making persons desiring to connect pay any sum to be used by the city in repairing or inspecting the sewers: *Hill vs. St. Louis*, 159 Mo. 159, loc. cit. 171.

Sec. 22. Joint district sewers, how established—special taxation for, authorized, how levied and assessed—when territory outside city limits is drained, city to pay portion of cost of construction—joint district sewers may be constructed in sections.—Joint district sewers may be constructed or acquired as follows: Whenever the Municipal Assembly, on the recommendation of the Board of Public Improvements, deems it necessary that a sewer be constructed in any part of the city, for the drainage or sanitary improvements of a section of the city comprising more than one established sewer district, or territory not yet in an established sewer district, it may, by ordinance, unite and establish such sewer districts, or parts thereof, and unorganized territory, into a joint sewer district, and cause a sewer or sewers to be constructed therein, and the whole cost thereof to be assessed against all the property within the boundaries of such joint sewer district as a special tax; but if the joint district sewer is to drain territory part of which lies outside of the city limits, and can not be included in the joint sewer district, then the Municipal Assembly shall provide in the ordinance or ordinances authorizing the construction of the joint district sewer or sewers, that a part of the cost of such sewer or sewers, in the proportion that the area of the unincluded territory bears to the whole area drained, shall be paid out of the general revenue, in which case the remainder of the cost shall be assessed as hereinafter provided.

The total cost of joint district sewers shall be levied and assessed upon all the property in the joint sewer district as follows: Whenever the whole

or a section of a joint district sewer is fully completed, the Sewer Commissioner shall cause the total cost thereof to be computed, and shall certify the same to the President of the Board of Public Improvements, and the President of said Board shall assess it as a special tax against all of the lots or parcels of ground in the joint sewer district, in the ratio that the area of each lot or parcel of ground bears to the area of the whole district, exclusive of the area of streets, avenues, public highways and alleys, and the President of said Board shall cause to be issued a special tax bill against each lot or parcel of ground in the joint sewer district, giving the name of the owner thereof, in favor of the contractor, which shall be collected and paid as provided in this article. Provided, however, that if the joint district sewer will drain territory part of which lies outside of the city limits, the City of St. Louis shall pay from the public revenue part of the cost of the joint district sewer in the proportion that the area of that part of the territory drained by the joint district sewer which lies outside of the city limits bears to the whole area drained; and the remainder of the cost of the joint district sewer shall be paid for as hereinbefore provided. When the extent and character of a joint district sewer is such as, in the opinion of the Board of Public Improvements, render its division into sections advisable, an ordinance or ordinances directing and authorizing the construction of one or more sections may be passed, and when the work in any such section is fully completed, special tax bills to the amount of the cost of such section shall be issued as herein provided. Joint district sewers shall be constructed of such material and of such dimensions as may be considered necessary and expedient by the Board of Public Improvements, and authorized by ordinance, and they may be connected with other sewers of any class or with some natural course of drainage.

Joint district sewers under new charter: *Prior vs. Construction Co.*, 170 Mo. 439.

Sec. 23 Private sewers—city to be at no expense for same—sewers and drains deemed private—may be acquired by city—special taxation therefor authorized—connections with other sewers, compensation for, at option of city— Private sewers connecting with the public, joint district and district sewers, or with natural watercourses, may be constructed under such restrictions and regulations as the Municipal Assembly may prescribe by general or special ordinance, recommended by the Board of Public Improvements; but the city shall be at no expense in the construction, repairing or cleaning of the same. All sewers or covered drains, draining or capable of draining more than one lot, built by private persons, corporations or associations, either within the boundaries of the lands owned or held by such parties previous to the subdivision of such lands, with or without a permit from the city, or in the streets, alleys, avenues or public places, under permits granted by the city, shall be considered private sewers. Whenever a private sewer, or any part thereof, is so located and constructed as to fit it to be a part of a joint district or district sewer, the city shall have the right to acquire such private sewer by gift, condemnation or purchase, but such acquirement shall be by ordinance recommended by the Board of Public Improvements. The city shall pay the cost of acquiring the same, and shall reimburse itself in the following manner: The total cost of such condemnation or purchase shall be assessed as a special tax against the property in such district or joint district sewer district, as the case may be, in favor of the city, in the manner herein provided for the construction of such sewers. Public, joint district and district sewers may be connected with private sewers without compensation to the owners or builders thereof, at the option of the city.

Ordinance provisions respecting private sewers: See Rev. Code, sec. 2308 *et seq.*

SPECIAL TAX-BILLS.

Sec. 24. Special tax bills, how made out, registered and delivered—place of payment to be designated.—All special tax bills for work contemplated by this Charter shall be made out by the President of said Board, and by him registered in his office in full, and certified and delivered to the Comptroller, and his receipt taken therefor, and by him registered and countersigned and delivered to the parties in whose favor they are issued for collection, and their receipts taken in full of all claims against the city on account of said work. In every such tax bill there shall be designated either the City Treasurer, or, at the option of the person or persons entitled to such tax bill, the name of some bank or trust company located and doing business in the City of St. Louis to whom payment of such bill may be made; and in case the City Treasurer is so designated, it shall be his duty to receive and receipt for such payment if tendered.

This section also is an amendment adopted at the election of Oct. 22, 1901.

Substitution of new tax-bills for void ones—Amendments of tax-bills irregularly issued or void.—New special tax-bills in payment for improvement work must be issued on demand and surrender of those incorrect because the district was wrongfully defined under the charter; and mandamus lies to enforce the contractor's right thereto: *State ex rel. vs. St. Louis*, 183 Mo. 230.

If the original bill was void and recovery defeated on that ground, the power to issue is not exhausted, but a new assessment may be had and new bills may be issued: *Eyerman vs. Provenchere*, 15 Mo. App. 256, 262, 270; *Eyerman vs. Payne*, 28 Mo. App. 72, 76.

But if the original bill was not void, but irregular only, a final judgment for defendant will bar another action on the same bill after it has been corrected: *Weber vs. Schergens*, 28 Mo. App. 587; *Eyerman vs. Payne*, 28 Mo. App. 1. c. 76; *Eyerman vs. Scollay*, 16 Mo. App. 498; but an amendment of the petition after correcting the bill is proper: *Galbreath vs. Newton*, 45 Mo. App. 312.

A special tax bill, whether void, voidable or merely imperfect, as issued, may be amended within the time limited for its enforcement: *Viehs vs. Planet Co.*, 64 Mo. App. 207. See as to limitation of tax-bills, *infra*, this section.

The particular officer may erase the wrong and insert the true name of the owner, even after expiration of his term: *Stadler vs. Roth*, 59 Mo. 400. So after expiration of his term he has the right to make proper amendments in other respects: *Morley vs. Weakley*, 86 Mo. 451 (changing blocks and lots); *Riley vs. Stewart*, 50 Mo. App. 594, 661 (issuing three in place of one, where such necessary); *Galbreath vs. Newton*, 45 Mo. App. 312 (holding that the fact that the late official had become non-resident made no difference; and allowing the amendment in the cause pending after remanding by the appellate court). The amendment must be made by the persons in office when the proceedings were had, though their terms have expired: *Kiley vs. Cranor*, 51 Mo. 541. Cases *supra*.

As to right to amend the tax-bill, see also *Eyerman vs. Blakely*, 13 Mo. App. 407; *Pendergast vs. Richards*, 2 Mo. App. 187.

Computation and Signatures of President of Board and Comptroller.—A special tax-bill is not void because the President of the Board of Public Improvements does not personally compute, levy or assess the cost of the improvement; if he attaches his name to the tax-bill, it is his act, and it is immaterial whether the actual computation is by him or an appointee: *Heman Const. Co. vs. Loevy*, 179 Mo. 455, 466, distinguishing *Eddy vs. Nevada*, 123 Mo. 546. To same effect see *Dickey vs. Porter*, 101 S. W. 586, 594 (Sup. Ct., March 30, 1907); *Jaicks vs. Merrill*, 98 S. W. 753 (Sup. Ct., Dec. 22, 1906); see also as to power of delegating computation: *Nevada vs. Morris*, 43 Mo. App. 586; *Sedalia vs. Donohue*, 190 Mo. 407; *Jaicks vs. Merrill*, *supra*. But in *Stifel vs. Cooperage Co.*, 38 Mo. App. 340, it was held that the duties imposed on the President of the Board of Public Improvements are discretionary, personal, and not ministerial and cannot in his absence be executed by a member of the board acting as president "*pro tem.*"; and that tax-bills signed by such "president *pro tem.*" are void; they must be signed by the President of the Board.

So also in *Eyerman vs. Payne*, 28 Mo. App. 72, it is held that while special tax-bills may be countersigned by a deputy comptroller in the Comptroller's absence or sickness, where it is shown that there is such an officer, because the duty to countersign is ministerial or formal, yet the ordinance under which such deputy was appointed must be proved; and if signed by the deputy it is void unless signed by him in the name of his principal.

Sec. 25. Special tax bills to be a lien on property—collected in name of contractor—interest—city Marshal to serve notice—action for false return—suit by attachment against non-resident.—Said tax bill shall be and become a lien on the property charged therewith, and may be collected of the owner of the land, and in the name of and by the contractor, as any other claim in any court of competent jurisdiction, with interest at the rate of six per cent per annum after thirty days from notice of its issuance, as hereinafter provided, and if not paid within six months after such notice, then at the rate of eight per cent per annum from the date of said notice; *provided, however*, that special tax bills payable in installments shall bear interest as hereinafter provided. It shall be the duty of the City Marshal, at the request of the holder or owner of any tax bill issued under this Charter, to serve upon the party or parties named in such tax bill, a notice of the issuance thereof, which service shall be made in the manner provided by law for the service of writs of summons in civil cases. The return of the City Marshal as to service shall be conclusive of the facts therein stated, and any person who may be injured by a false return shall have his right of action for damages resulting therefrom against the Marshal on his official bond. For the service of each such notice the Marshal shall be entitled to the same fee as may be allowed by law for the service of a writ of summons. Whenever the Marshal shall make a return of "not found" against any party, the institution of suit thereafter shall be deemed and taken to be the equivalent of such notice of and demand of payment. In case the owner of the ground is a non-resident of the State, suit may be brought by attachment, which shall be equivalent to notice, and a demand for payment.

See note at end of this section.

Certified tax bills prima facie evidence—defenses.—Such certified bill shall in all cases be *prima facie* evidence that the work and material charged in such bill shall have been furnished, and of the execution of the work, and of the correctness of the rates or prices, amount thereof, and of the liability of the person therein named as the owner of the land, charged with such bill, to pay the same; *provided*, that nothing in this section shall be so construed as to prevent the party charged with the payment of said bill from pleading in reduction of the amount of same, that the work therein mentioned was not done in a good and workmanlike manner; and provided that the party charged shall set up, by way of defense, that the work was not done in a workmanlike manner, according to the class of work mentioned in the contract, and that such party, before the commencement of the suit, tendered to the contractor the full value of such work done, and shall establish the same on the trial, the recovery shall only be for the amount so tendered, and judgment for costs shall be rendered against the plaintiff.

See note at end of this section.

City not liable on special tax bills.—The city shall not be liable, in any manner whatever, for or on account of any work done which is to be paid for in the manner provided in this section.

Certain tax bills shall be divided into parts and may be paid in installments—interest—effect of non-payment of interest or

installment when due.—*Provided however*, that every special tax bill authorized by this Charter to be levied or assessed for the construction or reconstruction of streets, avenues, highways, boulevards or district or joint district sewers, shall be divided into not less than three, nor more than seven, equal parts, as may be provided by the ordinance authorizing such improvements, payable and collectable in installments as follows: The first installment shall become due and payable thirty days after notice of the issuance thereof, without interest; the second installment shall become due and payable one year after such notice; the third installment, two years; the fourth installment, three years; the fifth installment, four years; the sixth installment, five years; and the seventh installment, six years, after such notice; *provided, however*, that the owner, or any person having an interest in the property charged with a tax bill may pay the same in full at any time within thirty days after notice as aforesaid, without interest, and such owner or person having an interest may pay such tax bills in full at any time by paying interest thereon as follows: If paid at or before maturity and more than thirty days after notice, as aforesaid, at the rate of six per cent per annum from date of notice to date of payment; if paid after maturity, at the rate of six per cent per annum from date of notice to date of maturity, and at the rate of eight per cent per annum from date of maturity to date of payment; all interest shall be payable annually from date of notice of the issuance of tax bills. If any installment of any such special tax bills, or any interest on any installment, be not paid when due, then, at the option of the holder thereof, all remaining installments shall become due and collectable, together with interest thereon as aforesaid. Suits may be brought to enforce the payment of such special tax bills, or any installment or installments thereof, with any interest due on any installment, in the manner herein provided for the bringing of such suits on other special tax bills.

See note below.

Limitation of lien of special tax bills—entry of satisfaction—

Whenever any special tax bill issued heretofore, or hereafter to be issued, to a contractor or contractors, shall be paid, it shall be entered satisfied on the register in the Comptroller's office; and the lien of any bill so issued that is not entered satisfied within two years after its maturity, unless proceedings in law shall have been commenced to collect the same within that time, and shall still be pending, shall be destroyed and of no effect against the land charged therewith; *provided, however*, that where bills are not paid in installments, the lien thereof shall terminate within two years after their date, unless such proceedings shall have been commenced within that time and be still pending.

This section is the amendment passed in 1901.

Interest under former section, see *Paving Co. vs. Peck*, 186 Mo. 506; *Bank vs. Woesten*, 176 Mo. 49; *Perkinson vs. Schnaake*, 108 Mo. App. 255 (character of demand necessary); *Eyer mann vs. Blakely*, 78 Mo. 145, 152 (power of city to impose penalties upheld).

Reduction of the bill because of failure to furnish the work as called for in the contract and faulty construction may be shown: *Hill-O'Meara vs. Hutchinson*, 100 Mo. App. 294, 297; *Heman vs. Franklin*, 99 Mo. App. 346.

But where the case is tried on the theory that substantial compliance entitled the recovery of the whole amount, an instruction for pro tanto recovery is properly refused: *Heman vs. Larkin*, 108 Mo. App. 392, 397; *Heman Const. Co. vs. Loevy*, 179 Mo. 455, 470.

And the defense (in reduction in the amount) that the contract was not performed in a workmanlike manner, can only be made upon tender of the amount justly due for the work done: *Asphalt Co. vs. Ullman*, 137 Mo. 1. c. 570 (under St. Joseph charter, which in this respect is like that of St. Louis).

And a strict compliance with the work prescribed has never been insisted upon by the city as a condition of acceptance: See cases cited in this note hereinafter.

So recovery pro tanto is also allowed where the ordinance under which the work was done was partly valid and partly invalid: See cases in note to sec. 15 of this article.

And by sec. 28 of this article, provision is made for timely objection by any citizen or taxpayer that the work is not being done according to contract (while in progress), and for an examination and decision by the Board, etc., with power to make such order as shall be just and reasonable, carried out by ordinances: R. C., secs. 1922-1932.

Action to Enforce Tax-Bill—Nature of Liability—Essentials to Validity.

There must be a special tax-bill made out in accordance with law; and there can be no recovery unless the special tax bill sued on is put in evidence; there cannot be *scire facias* or execution on the original condemnation judgment in which the amount of benefits is fixed: *St. Louis vs. Brinckwirth* (decided May 29, 1907, and at this writing not yet reported), overruling *Eyssell vs. St. Louis*, 168 Mo. 607.

Proceedings against property owners to enforce special tax-bills for local improvements are in the nature of proceedings *in rem* to enforce the lien on the property and compulsory payment can only be made by a sale of the assessed property, not by judgment *in personam*: *Barber Asphalt Co. vs. St. Joseph*, 183 Mo. 451 (citing numerous cases and showing the abandonment of the former theory that they could be enforced as personal judgments); *Heman Const. Co. vs. Loevy*, 179 Mo. 455, 471; *Hill-O'Meara vs. Sessinghaus*, 106 Mo. App. 163 (construing a sewer bill judgment as not being personal); *St. Louis vs. Allen*, 53 Mo. 50.

The lien is against each lot severally, though the bills be issued serially, and where in a condemnation proceeding, in order to clear the title of the liens of tax-bills, a certain sum is paid into court by the city by consent of all persons interested, such sum stands in lieu of the lots, and if insufficient in the end to pay the bill and interest, that will not make such bills a lien on adjacent lots against which the bills were not severally issued: *Ross vs. Gates*, 117 Mo. App. 237.

Public property held for public uses is not subject to special taxes, nor can a general judgment be rendered against a public corporation, unless the legislative power has clearly so enacted: *St. Louis vs. Brown*, 155 Mo. 545, 560; *Barber Asphalt Co. vs. St. Joseph*, 183 Mo. 451, 455, and cases cited; *Clinton ex rel. vs. County*, 115 Mo. 557.

As to what property is subject to special taxation and what is exempt, see note to sec. 14 of this article.

But the proceeding is not so strictly *in rem* as to bind persons not parties, etc.: See *Jaicks vs. Sullivan*, 128 Mo. 177, 182, *et seq.*, and cases there cited; *Stadler vs. Roth*, 59 Mo. 400; and see further, succeeding paragraphs of this note.

The ability of a city to create a lien on the property of the abutting owner for street improvements is not founded on any pre-existing right, but is *in invitum*, and rests exclusively on a substantial adherence to the method prescribed by the ordinances authorizing the same, and of the charter as the basic power: *Paving Co. vs. Munn*, 185 Mo. 546, 574; *Kiley vs. Oppenheimer*, 55 Mo. 374; *Rose vs. Tres-trail*, 62 Mo. App. 352; *Smith vs. Westport*, 105 Mo. App. 221, 224; *Construction Co. vs. Geist*, 37 Mo. App. 509, 512-513; *Independence vs. Gates*, 110 Mo. 1. c. 385. See also *Elsberry vs. Black*, 120 Mo. App. 14, 23, and *Excelsior Springs vs. Et-tenson*, 120 Mo. App. 215.

And there must be a fair compliance with all conditions precedent, whether required by charter or ordinance; but a construction so strict as to defeat the obvious intent of the ordinance for improvement is not required, nor is a literal compliance required: *Cole vs. Skrainka*, 105 Mo. 303, 308-309; *St. Joseph vs. Landis*, 54 Mo. App. 315, 322, 325; *Allen vs. Rogers*, 20 Mo. App. 295-296.

A strict compliance with ordinance and contracts thereunder prescribing the manner in which the public improvement shall be made, has never been required as a condition to the acceptance of the work by the city, or to the validity of the tax-bill for the cost: *Steffen vs. Fox*, 124 Mo. 630, 635; s. c. 56 Mo. App. 9; *Sheehan vs. Owen*, 82 Mo. 458.

Especially is this the case where the non-compliance was not the fault of the contractor, but of the city officials: *Eyer mann vs. Provenchere*, 15 Mo. App. 256 (conflict between plans and ordinance).

Acceptance of the work is not a judicial act of the commissioner, and he may correct his decision if rendered in consequence of clerical error in his office: *Eyer mann vs. Provenchere*, *supra*; citing *Prendergast vs. Richards*, 2 Mo. App. 187.

Where the tax-bill is void, recovery may be had on new tax-bills thereafter issued which are valid: See note to sec. 24 of this article.

Although a material departure, going to its substance, avoids the tax-bill: *King-Hill vs. Hamilton*, 51 Mo. App. 120, 124.

As to partial completion of work called for, see note to sec. 14 of this article.

In an action on a special tax-bill for benefits growing out of a street opening or widening proceeding, or change of grade, the claim that there was no benefit, or that there has been no compensation for property taken, or other matters that could have been or were raised in the original proceeding, cannot be raised in an action to enforce the special tax-bill issued therefor: See cases in note to section 2 of this article (under "Conclusiveness of Proceeding," etc.).

Nor can the owner in an action on a special tax-bill for street construction or other local improvement (where there was no original court proceeding), raise the question that he has not been benefited, nor that there was no necessity for the improvement, nor other matters of that kind, which are legislative in character: See authorities in note to sec. 14 of this article.

"All these obstructive measures and technical defenses upon which property owners resist the payment of special tax-bills after getting the benefit of the work, result in permanent injury to the city and to the holders of property therein," as it compels the contractors to demand higher prices for the work: *Thompson, J., in Eyer mann vs. Provenchere*, 15 Mo. App. 1. c. 263.

The officers under the charter of St. Louis are selected presumably on account of their fitness and integrity, and their intentions are presumed to be honest, and that in performing their public duties they deal fairly and justly with citizen and property owner: *Bank vs. Woesten*, 147 Mo., 1. c. 481; *Barber Asp. Co. vs. Hezel*, 76 Mo. App., 1. c. 152.

"Action by the city officials in regard to imposition of special taxes for a street improvement comes within the protection of the general maxim that public officers are presumed to have rightly acted until the contrary is made to appear. It is a grave error to suppose that the law looks with any disfavor upon these special bills for street improvement. They are to be treated with the same fairness and justice that should be accorded all public acts . . . and a want of conformity to law is not to be presumed as to such governmental action any more than to other proceedings of public functionaries": *Barclay, J., in Asphalt Pav. Co. vs. Ullman*, 137 Mo., 1. c. 568; to same effect: *St. Joseph vs. Farrell*, 106 Mo. 437.

But persons dealing in special tax-bills or taking contracts for city work are conclusively presumed to know the law, and at their peril to see that it is complied with: *Carroll vs. St. Louis*, 4 Mo. App. 191, 192-193; *Pryor vs. Kansas City*, 153 Mo. 135, 142, 150. See cases and discussion in note to Art. XVI, sec. 7.

Owners and names: As to where owners hold undivided interests, see *Louisiana vs. McAllister*, 104 Mo. App. 152.

Where name of one co-owner is omitted from bill, see *Farrell vs. Rammelkamp*, 64 Mo. App. 425 (bill not prima facie evidence as against him).

Where minors hold undivided interests, see *Horstmeyer vs. Connors*, 56 Mo. App. 115, 121.

Life tenant and remaindermen, see *Bobb vs. Wolff*, 54 Mo. App. 515.

Property held in trust, beneficiary proper person, but trustee's name not necessary as owner: *St. Louis vs. Creamer*, 43 Mo. 552.

Parties to deed of trust, on the property: See *St. Louis vs. De Noue*, 44 Mo. 136.

"The owner" against whom the proceeding to enforce the special tax is brought, in the absence of notice to the contrary, is the record owner, and a pur-

chaser at the sale thereunder gets a good title against an unrecorded deed of which the purchaser has no notice: *Vance vs. Corrigan*, 78 Mo. 94; *Smith vs. Barrett*, 41 Mo. App. 460, 465; but as to actual notice, see cases cited in *Stuart vs. Ramsey*, 196 Mo., 1. c. 414. (See cases to same effect under sales for delinquent general taxes, referred to in note to sec. 491 of "Laws Specially Applicable to St. Louis"). But if the person in whose name the property stands of record be dead when the suit is instituted, it is void; the interests of his heirs or devisees in the land are not divested: *Jaicks vs. Sullivan*, 128 Mo. 177, 187. And the record "owner" at the commencement of the suit, not when the special tax-bill is issued, is the proper party to proceed against: *Smith vs. Barrett*, 41 Mo. App. 460, 465 (*Kansas City Charter*).

Mistake or omission of the name of the owner is not fatal as to the tax-bill and does not vitiate it; but the rights of such owner are not affected until he has his day in court: *Eyerman vs. Scollay*, 16 Mo. App. 498; *St. Louis vs. De Noue*, 44 Mo. 136; *Stadler vs. Roth*, 59 Mo. 400 (holding that the correction could be made by erasure and insertion by the successor in office, but that this destroyed the *prima facie* effect of the bill): *Galbreath vs. Newton*, 45 Mo. 312; *Veiths vs. Planet Co.*, 64 Mo. App. 207 (holding that the new tax bill, properly re-executed, has the *prima facie* proof of validity the same as if originally so issued).

Defects in apportioning cost.—Nor does a slight error in computation make the bill void: *Creamer vs. McCurry*, 7 Mo. App. 91; *Neenan vs. Smith*, 60 Mo. 292.

Error in theory of apportionment of cost may be corrected by issuance of new bills: See note to sec. 24 of this article.

But a computation not according to law, or erroneous, may be shown in defense of the bill: *Creamer vs. Allen*, 3 Mo. App. 545; *Haegle vs. Mallinckrodt*, 3 Mo. App. 329, 334; *Gallaher vs. Bartlett*, 64 Mo. App. 258, 262.

A special tax-bill is void unless grounded on a valid assessment: *Heman vs. Farish*, 97 Mo. App. 393, 401; *St. Louis vs. Brinckwirth*, (decided Sup Ct., May 29, 1907, not yet reported).

Real party in interest as plaintiff in suit on special tax-bill which has been pledged to secure a debt: *Dickey vs. Porter*, 101 S. W. 586, 590 (Sup. Ct., March 30, 1907), with discussion of authorities.

As to proper assessment district, method of ascertaining benefits, etc. See note to section 14 of this article.

Description of property in special tax-bill is sufficient if the property is identified thereby: *Const. Co. vs. Loevy*, 64 Mo. App. 430.

An attachment of the property subject to the tax can be maintained against non-residents not served, in aid of a suit on a special tax-bill, under the St. Louis charter: *Syenite Granite Co. vs. Bobb*, 37 Mo. App. 483.

Demand before suit is not (at least under the old provision) a condition precedent to a recovery on the tax-bill: *Eyermann vs. Provenchere*, 15 Mo. App. 256, 271.

Sufficiency of allegations in petition: A petition alleging making of tax-bill, its contents with dates thereof, its assignment, its filing, and that defendant owns the lot described therein, is sufficient: *Turner vs. Patton*, 54 Mo. App. 654 (*Kansas City*); *Vieths vs. Planet Co.*, 64 Mo. App. 207, 211 (*St. Louis*); see also *Bank vs. Wright*, 68 Mo. App. 144.

Prima facie evidence of a certified special tax bill: *Heman vs. Larkin*, 108 Mo. App. 392, 397; *Eyermann vs. Blakesly*, 78 Mo. 145, 148 (upholding such laws); *Moberly vs. Hogan*, 131 Mo. 19; *Heman vs. Farish*, 97 Mo. App. 393; *Asphalt Co. vs. Ulman*, 137 Mo. 543, 560; *St. Joseph vs. Farrell*, 106 Mo. 437; *Nevada vs. Morris*, 43 Mo. App. 586.

Not conclusive: *Haegle vs. Mallinckrodt*, 3 Mo. App. 329, 335; *Creamer vs. Allen*, 3 Mo. App. 545; *Gallaher vs. Bartlett*, 64 Mo. App. 258, 262.

Tax-bills are not *prima facie* evidence against persons whose names as owners are omitted: *Farrell vs. Rammelkamp*, 64 Mo. App. 425, 428; *St. Louis vs. Noue*, 44 Mo. 136; *Kansas City vs. Surety Co.*, 71 Mo. App. 315; nor do they become so even when afterwards corrected by erasure and substitution by proper officer:

Stadler vs. Roth, 59 Mo. 400. But it is otherwise where the tax-bill is amended and properly re-executed by the officials: Vieths vs. Planet Co., 64 Mo. App. 207-210, holding it as *prima facie* evidence as if originally so issued. Tax-bills not properly signed are not *prima facie* valid: Eyerman vs. Payne, 28 Mo. App. 72.

Nor are tax-bills for repairs *prima facie* valid for construction work: Farrell vs. Rammelkamp, 64 Mo. App. 425, 428.

Estoppel of owner. A property owner is not estopped from defending against a tax-bill as being void on the ground that he stood by and made no protest when the plaintiff was doing the work which benefited his property, nor because he petitioned for the improvement to be made. A void tax-bill cannot be made valid by any act of the owner: Perkinson vs. Hoolan, 182 Mo. 189, and cases cited. To same effect: Keane vs. Klausman, 21 Mo. App. 485, 488; Verdin vs. St. Louis, 131 Mo. 26 l. c. 98, but see *contra* Sherwood, J., dissenting, p. 143 *et seq.* But it was held that the owner of an undivided interest is estopped from setting up his partial ownership in reduction of the tax-bill where he has held himself out as sole owner: Louisiana vs. McAllister, 104 Mo. App. 152. And that a property owner cannot affirmatively induce a departure from the ordinance and contract by his own acts, and then avail himself of the change to escape payment: Hill O'Meara vs. Hutchinson, 100 Mo. App. 294, 301. And see also St. Joseph vs. Landis, 54 Mo. App. 613, 626. So also the owner who stands by and sees the work properly done and gets the benefit thereof will not be heard to complain afterwards in a suit on the tax bills that there were irregularities in the proceedings in the obtaining of the contract of the contractor, such as vague specifications as to materials, manner of work, etc., so as to prevent competitive bidding: Jaicks vs. Merrill, 98 S. W. 753, 758 (Sup. Ct. Dec. 22, 1906).

A requirement that the property owner file objections to tax-bills in writing with a board, within a certain time after issuance thereof, and be concluded from making any other defense against the tax-bills, is unconstitutional and void: Barber Asp. Co. vs. Rithye, 169 Mo. 376, 382.

Owner cannot dispute benefits assessed, nor necessity for the work, for which special tax-bills are issued in an action thereon: See cases cited in note to Art. VI, sec. 14.

Constitutional exemptions from taxation do not apply to special tax-bills: Clinton vs. Co., 115 Mo. 557. And see further on this and analogous points, note to sec. 14 of this article:

Limitation of special tax-bill: Under the Charter the original condemnation for street purposes being a judgment, the collection of the benefits assessed as resulting from the *street opening*, and evidenced by special tax-bill, was not barred in five years but only after ten years like any other judgment: Eyssell vs. St. Louis, 168 Mo. 607; St. Louis vs. Annex Co., 175 Mo. 63. But this does not apply to a special tax-bill for *improvements*: Eyssell vs. St. Louis, *supra*, p. 621. See as to benefits from street openings, note to sec. 1 *et seq.* of this article. As to limitations of lien under Kansas City charter, providing for payment on installment plan, and in case of default in payment of principal or interest authorizing collection of all unpaid installments, see Barber Asph. Co. vs. Meservey, 103 Mo. App. 183 (three opinions, all concurring that limitation only runs from maturity of last installment); Ross vs. Gates, 117 Mo. App. l. c. 244.

It is held that limitation of special tax-bill runs from date of delivery to contractor, not date of bill: Folks vs. Yost, 54 Mo. App. 55 (Kansas City); So under the St. Louis Charter it was held that the limitation begins to run from the date of the bill and not from the completion of the work (the question whether it begins to run from delivery or date was not raised) so that where new bills are issued in place of former void ones time begins from the date of the new bills which supersede the former: Eyerman vs. Payne, 28 Mo. App. 72, 76. But this does not apply unless the bills first issued are void; if only irregular as in case of erroneous name of owner, time runs from the first: Eyerman vs. Scallay, 16 Mo. App. 498; so where the proper party is brought in by amendment after the time limited for the lien, the lien is dead and cannot be enforced: Smith vs. Barrett, 41 Mo. App. 460, 468; Jaicks vs. Sullivan, 128 Mo. 177, and cases cited (where the suit was originally brought against one deceased).

Delivery is presumed on day of date of bill in the absence of any evidence: St. Louis vs. Armstrong, 38 Mo. 29, 33.

The lien attaches (it was held, under a former charter) from the date of the assessment, which cannot be made until the work is fully completed and the precise amount of its costs ascertained: *Anderson vs. Holland*, 40 Mo. 600, 601, relying on *St. Louis vs. Clemens*, 36 Mo. 467 l. c. 473.

Under the present charter (Art. VI, sec. 24), the special tax-bills do not become a lien on the property chargeable with the cost of the work until they are delivered to the party designated in the charter to receive them: *Mercantile Trust Co. vs. Niggeman*, 119 Mo. App. 56, 62 (relying upon *Everett vs. Marston*, 186 Mo. 587, construing the Kansas City charter, as determining the question).

Action against city for failure to permit contractor to complete work, when barred: *Ash vs. Independence*, 103 Mo. App. 299. The City of St. Louis is liable to a contractor for street improvements where by its own acts it prevents the issuance of tax-bills and orders the work it contracted for to be stopped without cause: *Steffen vs. St. Louis*, 135 Mo. 44, 51; see also *Chambers vs. St. Joseph*, 33 Mo. App. 536, and *Dist. Columbia vs. Lyon*, 161 U. S. 200. Where the Charter provides that the city shall not be liable on the special tax-bills, the fact that the supposed street is really not such, which renders the tax-bill void, does not entitle the contractor to recover from the city, though the work be completed according to contract: *Carroll vs. St. Louis*, 4 Mo. App. 191. But see *Murray vs. Kansas City*, 47 Mo. App. 105 (where there was no such limitation shown as exists in the St. Louis Charter).

An action lies against the city to remove a cloud on title caused by the issuance of a void special tax-bill purporting to be a lien: See full discussion in *Verdin vs. St. Louis*, 131 Mo. 26, 74-80, 100, and in dissenting opinion in the same case, 108 *et seq.*, also 152 *et seq.* See also as to cancelling special tax-bill, *Heman vs. Skinker*, 148 Mo. 379.

Installments (under Kansas City charter, when due and how pleaded): *Jaicks vs. Merrill*, 98 S. W. 753 (Sup. Ct. Dec. 22, 1906).

Sec. 26. Special tax bills may be assigned—formality required—payment.—Such special tax bills and lien thereof shall be assignable. Each and every transfer of special tax bill shall be registered in the office of the comptroller, and no transfer thereof shall be valid or effectual until it is so registered. Every transfer shall be in writing, and witnessed by the Comptroller personally, or by one of his deputies, duly acknowledged before a notary public, or other officer authorized to take acknowledgments, and in each transfer there shall be designated the City Treasurer or the name of some bank or trust company located and doing business in the City of St. Louis, to whom payment of the said tax bill, or of any of the installments thereof, or of any interest on any installment thereof, may be made at or after maturity; and payment made to the City Treasurer, whose duty it shall be to receive and receipt for the same, if tendered, or to the designated bank or trust company, shall be sufficient to procure the partial or total entry of satisfaction of such tax bill, as the case may be, in the office of the Comptroller on presentation to the Comptroller of the tax bill duly receipted, or on presentation of a receipt of the City Treasurer or of such designated bank or trust company showing such payment. All payments made to the City Treasurer shall be by him paid over to the party or parties entitled thereto upon the warrant of the Auditor.

This section, like those preceding, was one of the amendments adopted Oct. 22, 1901.

Special tax-bills were assignable under the old charter provision as a matter of law; as to this, and what is sufficient to establish assignment under the old Charter see *Bambrick vs. Campbell*, 37 Mo. App. 460, 462. See also as to assignment under Kansas City charter: *Dickey vs. Porter*, 101 S. W. 586 (Sup. Ct. March 30, 1907).

Substitution of assignee by amendment in pending suit: *Springfield vs. Weaver*, 137 Mo. l. c. 670.

CONTRACTS FOR PUBLIC WORK.

Sec. 27. Assembly forbidden to contract for public work—B. P. I. to submit ordinance for proposed work—advertising for bids, requisites—contract to be let to “lowest responsible bidder”—one having failed to carry out prior contract with city deemed not responsible—bids may be rejected—sureties on contractor’s bond.—The Assembly shall have no power directly to contract for any public work or improvement, or repairs thereof, contemplated by this Charter, nor to fix the price or rate therefor; but in all cases, except in case of emergency work or necessary repairs requiring prompt attention, the Board of Public Improvements shall prepare and submit to the Assembly an ordinance, with an estimate of the cost endorsed thereon by the President of the Board, authorizing the doing of any proposed work, and, under the direction of the ordinance authorizing the same, shall advertise for bids, in the papers doing the city printing, three times, the last publication to be at least ten days before the day appointed for the opening of the bids, stating the general nature of the work to be done and the time and place when the bids will be received, and shall let out said work by contract to the lowest responsible bidder. Any other mode of letting out or contracting for work shall be held as illegal and void. But when so provided in the ordinance authorizing or directing the work to be done, the advertising may be for a different period, and in other papers than those provided above. No security on any bond shall be taken unless he shall pay taxes on property equal in an amount to his liability on all bonds on which he may be security to the city. And no contract shall be made under this section without bond for its faithful performance, with at least two sufficient securities. No person, firm or corporation shall be deemed such a responsible bidder who has failed or refused to fully carry out any prior contract let to him or them for doing any work contemplated by this Charter; *provided, however*, that the said Board of Public Improvements shall have full power and authority to reject all bids so advertised for and submitted, whenever, in its judgment, the interests of the city may require, and in such event shall, in like manner, re-advertise for bids for such work.

See note below.

Certified checks to accompany all bids.—All bids for the doing of public work shall be accompanied with a certified check on some bank or trust company in the City of St. Louis, payable to the order of the Treasurer of the City of St. Louis, for the amount of the deposit required, enclosed in the sealed envelope enclosing the bid.

Also an amendment adopted Oct. 22, 1901.

For ordinance provisions concerning the advertisements of public improvements and the awarding of contracts see Rev. Code, Chap. 24, Art. 8, being sections 1976-1994a inclusive; also sec. 1165.

Under the charter provisions the assembly has no authority, but the Board of Public Improvements alone is authorized, to let contracts: See cases below cited; but the water commissioner has the power of “doing of all work, and the furnishing of all materials and supplies for the water works,” etc., except where it is not practical to do so by contract; and all contracts must be approved by the council: Art. VII, sec. 3. And the Commissioner of Supplies purchases all articles needed by the city in its departments, etc.: Art. IV, sec. 29; but the fire chief in emergencies may make certain purchases with the Mayor’s approval: Art. XI, sec. 2; and all printing and binding is contracted for by the Register, on public lettings, subject to council’s approval, with provision for temporary contracts, etc.: Art. XV, sec. 1.

What is public work: Under the provision that the B. P. I. is to let all contracts for public work, the Board of Health has no power to contract for re-

removal of garbage, and such a contract is void: *State vs. Butler*, 178 Mo. 272. See as to garbage ordinances R. C., Ch. 11, Art. 10, secs. 1196 and following, and see notes thereto.

A contract for erecting boxes on the streets for waste paper is public work and must emanate from the B. P. I. or be void: *State ex rel. vs. St. Louis*, 161 Mo. 371.

An ordinance authorizing the present purchase of existent property (water pipe laid by citizens with the city's consent) cannot be considered as public work within the meaning of this section: *State ex rel. vs. St. Louis*, 169 Mo. 31, 37.

Letting out work to lowest responsible bidder: (See also R. C., secs. 1987 *et seq.*)

This clause is not violated because the contract included provisions of ordinance requiring dressing of all stone to be done in Missouri: See cases cited in next section (28) of this article.

This clause, (sec. 27) is not violated because of the selection by the Board of Public Improvements of a patented cement, manufactured by only one company, as a binding for the macadam used: *Swift vs. St. Louis*, 180 Mo. 80, and authorities cited.

Nor because of the selection of an article of paving exclusively made by a given group of persons, or exclusively within the control of one concern: *Asphalt Co. vs. Hunt*, 100 Mo. 22; *Swift vs. St. Louis*, 180 Mo. 80; *Verdin vs. St. Louis*, 131 Mo. 26, 91, 100, 168; *Paving Co. vs. Field*, 188 Mo. 182.

In *Verdin vs. St. Louis*, 131 Mo. 26, Judge Sherwood points out (pp. 161-164) that sec. 29 of Art. IV of the Charter applies exclusively to the Supply Commissioner, who has no discretion, and that it is independent of sec. 27 of Art. VI, which applies to the Board of Public Improvements letting out the contracts to the lowest *responsible* bidder, thus according discretion. In the one case it is a contract of purchase, in the other for work.

See also as to discretion in selecting lowest responsible bidder, and the presumption of right acting by the board to the citizens as well as property owners: *Bank vs. Woesten*, 147 Mo. 1. c. 483; *Clapton vs. Taylor*, 49 Mo. App. 1. c. 123 *et seq.*; *Gibson vs. Owen*, 115 Mo. 258 (allowing award to next lowest bidder without readvertising where the lowest one declines to comply with the requirements after being selected). And where there is such discretion mandamus will not lie: *State ex rel. vs. McGrath*, 91 Mo. 386 (state printing). Also see cases in note to sec. 25 of this article, as to presumption of right acting by the officials.

Nor is a contract invalidated on the ground of interference with the determination of who is the lowest bidder, or as including terms for repairs with those of construction because it contains a clause that the street or improvement, after construction, shall be maintained by the contractor for a number of years, even when the advertisement for bidders, and contract itself, includes separate terms and conditions for the construction and for the maintenance: *Bank vs. Woesten*, 147 Mo. 467.

That such a provision is not one for repairs but merely for the quality of the work at the outset being sufficiently good to last for the time specified is held in numerous cases cited in note to sec. 15 of this article; see also note to sec. 18.

It was held in *Allen vs. Rogers*, 20 Mo. App. 290, that a contract was not invalidated because of uncertainty as to the lowest bidder because containing a clause that the contractor shall do such extra work as the street commissioner shall direct at a price fixed by the commissioner; the court holding such clause to refer only to work resulting from unforeseen circumstances in carrying out the contract.

That there is but one bid does not, of course, invalidate the contract: *Barber Asp. Co. vs. Hezel*, 76 Mo. App. 1. c. 152.

Mistake in bid; withdrawal of bid by contractor, etc.: See *Moffett vs. Rochester*, 173 U. S. 373 (under charter of City of Rochester).

As to lost bid see *Morley vs. Weakley*, 86 Mo. 451, 457.

Contractor's bond; and also for contract provisions, time for completion of work, etc., see note to section 28 of this article.

Estimate of cost required: See on this point cases cited in note to section 15 of this article. Also see next section (28).

Notice of letting of a contract for public work, the cost of which is to be collected from the citizens *volens volens* by special assessment is a condition precedent which must be fairly complied with, whether prescribed by Charter or ordinance: Clapton vs. Taylor, 49 Mo. App. 117, 126, and cases there cited; Keane vs. Cushing, 15 Mo. App. 96; see s. c. 21 Mo. App. 485.

Where one of the days of such a publication is Sunday, this does not make the notice illegal: Clapton vs. Taylor, *supra*; Barber Asp. Co. vs. Muchenberger, 105 Mo. App. 47; St. Joseph vs. Landis, 54 Mo. App. 315, 324.

Nor is it fatal that on the day of the letting there is no publication (at least if there can be no publication on that day): Clapton vs. Taylor, *supra*; Barber Asp. Co. vs. Muchenberger, *supra* (where the last publication was on Sunday, so that there could have been none on the day of opening the bids). A newspaper does not prove itself; the publisher's affidavit is *prima facie* correct; to show that a publication did not take place as therein stated it is not sufficient simply to produce what purports to be a copy of the newspaper, but such copy must be shown to have been intended for circulation: Ross vs. Gates, 117 Mo. App. 237, 246 *et seq.* (discussing also effect of a special or "Four O'clock" Edition omitting the advertisement). It was held by the court of appeals that where the advertisement for the letting of the contract was had before the expiration of the 10 days after the approval of the ordinance which must elapse before the ordinance goes into effect, the tax-bill issued for the work done under the contract was void: Keane vs. Klausman, 15 Mo. App. 96 (s. c. 21 Mo. App. 485); but this case was overruled by the Supreme Court in Springfield vs. Weaver, 137 Mo. 650 (holding that under the Charter, in that case of Springfield, it was immaterial whether the advertisement preceded or followed the passage of the ordinance).

Delay in the letting does not invalidate the tax-bill: Jaicks vs. Middlesex, 98 S. W. 759 (Sup. Ct. Dec. 22, 1906). As to delay by the contractor in completing the work, see note to next section.

Sec. 28. Improvement ordinances to contain specific appropriation—work may be done in parts, but appropriation shall be made for each part.—Every ordinance requiring work to be done shall contain a specific appropriation from the proper revenue and fund for such part thereof, as may be payable by the city based upon an estimate of cost, to be endorsed by the President of the Board of Public Improvements on said ordinance, for the whole of the cost of the proposed work. *Provided, however,* that when the work contemplated by such ordinance is of such magnitude that the total cost thereof would exceed the amount of money then in the city treasury, and available for such purpose, the ordinance may provide for the whole work, which shall prescribe that it shall be contracted for and done in sections or parts as the Assembly shall, from time to time, appropriate the money to pay for the same. But in all such cases the work to be done in sections or parts shall be limited to the amount appropriated for the doing of such sections or parts, and in this manner ultimately to complete the work specified.

See note below.

Contract provision—suspension of work on complaint—B. P. I. to examine and report—cost.—Every contract shall contain a clause to the effect that it is subject to the provisions of the charter, that the aggregate payments thereon shall be limited by the amount of such specified appropriation, and that, on ten days' notice, the work under said contract may, without cost to or claim against the city, be suspended by said Board with the approval of the Mayor, for want of means, or other substantial cause; *provided,* that on the complaint of any citizen and taxpayer, that any public work is being done contrary to contract, or the work or material used is imperfect or different from what was stipulated to be furnished or done, the said Board shall examine into the complaint and may appoint two or

more members of said Board to examine and report on said work, and after such examination, or after considering the report of said commissioners, they shall make such order in the premises as shall be just and reasonable, and what the public interest seems to demand, and such decision shall be binding on all parties; the cost of such examination shall be borne by the contractor, if such complaint is decided to be well founded, and by the complainant, if found to be groundless.

Amendment adopted Oct. 22, 1901.

Contract provisions: See ordinances Rev. Code, secs. 270, 1918 *et seq.*, 884 and following. A provision in pursuance of an ordinance that all stone used be dressed in the State of Missouri is valid: *Allen vs. Labsap*, 188 Mo. 692, 698; or at least will not make a tax-bill void when it is shown that in the particular case competition was not restricted thereby: *St. L. Quarry Co. vs. Frost*, 90 Mo. App. 677, 689. But the ordinance upon which that clause was based was held void in *St. L. Quarry Co. vs. Von Versen*, 81 Mo. App. 519; it was omitted from the Mun. Code 1901 and is not incorporated in present contracts, and may presumably be considered as repealed, although no express repealing act has been discovered by the reviser; See note to R. C., sec. 1921.

Restriction in contract that laborers work only eight hours per day is valid: *St. Louis Quarry Co. vs. Frost*, 90 Mo. App. 677, 690; *Curtice vs. Schmidt*, 101 So. W. (Sup. Ct. March, 1907) 61, 66; (see R. C., sec. 270, and note thereto; also *Atkin vs. Kansas*, 191 U. S. 207).

An ordinance for street improvements is not void because it leaves certain details of construction to the discretion of the proper city officials: See cases in note to sec. 15 of this article.

A provision in a contract for public work that in order to prevent disputes and litigation, the city's commissioner shall determine the amount of the work to be paid for, and shall decide all questions which may arise relative to the execution of the contract, is valid and his estimate will not be set aside except for fraud, partiality or misapprehension of fact: *McCormick vs. St. Louis*, 166 Mo. 315 (two judges dissenting on the ground that the commissioner had no power to construe the contract).

The power to make improvements and to let contracts therefor and to exact of the contractor a bond for the faithful performance of his contracts necessarily implies the power to do everything necessary for the faithful performance of the work, for the protection of the city and its citizens and for securing the best and lowest possible bids. Indeed, it is difficult to conceive of any matter of detail incident to the contract and the work, that the city might not require, that a private person could require: *St. Louis vs. Von Phul*, 133 Mo. l. c. 567.

Bond of contractor: (See also Rev. St. 1899, sec. 6762, and Rev. Code, sec. 1989, as to provisions in favor of material men and laborers in case of municipal contracts). The bond may be properly conditioned to require the contractor to pay to the proper parties all amounts due for material or labor employed in the performance of the contract; and such provision may be enforced by the persons sought to be benefited thereby: *St. Louis vs. Von Phul*, 133 Mo. 561; *Kansas City vs. Surety Co.*, 196 Mo. 281, 305. See also as to contract of school district to same effect: *School District vs. Livers*, 147 Mo. 580. The city should not sue in its own name but to the use of the material-men: *Bethany vs. Howard*, 149 Mo. 504. The contract between the material men and the contractor is independent of the contract between the city and the contractor; the fact that the contract between the city and the contractor may be invalid can have no effect upon the contract between the material men and the contractor; and after the work is done and paid for by the city to the contractor, the latter's sureties on his bond to the city for the benefit of the material men, are estopped from claiming the invalidity of the bond and contract with the city: *Kansas City vs. Surety Co.*, 196 Mo. 281, l. c. 302.

But it was held by the Supreme Court in *St. Louis vs. Wright Contracting Co.* (101 S. W. 6, decided March, 1907) that the city cannot sue as trustee of an express trust for the benefit of property owners on the bond of a contractor who had entered into contract with the city for the grading and paving of streets, but who in violation of his contract refuses to do any work, thus compelling the city to relet the work to another at a higher price, which the property

owners have to pay in special tax-bills. The form of bond as at present in use in such cases does not explicitly confer on the property owners a right to sue on it, and the court held no such right existed, thereby depriving the property owner of all redress against a contractor who violates the contract made by the city, thus announcing that while the city may bind the owner's property to pay to the contractor for the improvement, yet it has no right to protect him if the contractor violates his agreement to the city.

Time for completion of work: The tax-bill will not be void if the work is completed within a reasonable time, provided no ordinance provisions regulate the time and the contract provides certain deduction to be made if the work be not completed within a certain specified period, thus manifesting the contemplation of a non-completion in that time: *Allen vs. Labsap*, 188 Mo. 692, 696; *Heman vs. Gilliam*, 171 Mo. 258, 267 *et seq.* reviewing all the cases, distinguishing them, and overruling *Ayers vs. Schmoll*, 86 Mo. App. 349; *Curtice vs. Schmidt*, 101 S. W. 61 (March 28, 1907).

But even under the above conditions if the work is not finished in reasonable time and the contractor does not proceed in reasonably good faith to finish in the time specified in the contract, the tax-bill is void: *Schibel vs. Merrill*, 185 Mo. 534, and cases cited.

And if the ordinance does provide within what time the work is to be completed, the work must be completed within the time so specified, or the tax-bill will be void, and this even if the contract in pursuance of such ordinance contains provisions fixing penalties for non-completion in time, or undertakes to extend the time, for the ordinance controls the contract whenever repugnant: *Paving Co. vs. Munn*, 185 Mo. 552, 568, reviewing the cases; and see *Hund vs. Rackliffe*, 192 Mo. 312, 323 *et seq.* And if there is a general ordinance requiring the work to be completed "within the time agreed on" and the contract fixes that time, though the special ordinance providing for the work does not, the tax-bill is invalid if not completed according to contract: *Springfield vs. Davis*, 80 Mo. App. 574 as explained and distinguished in *Heman vs. Gilliam*, 171 Mo. loc. cit. 267-268; see also *Hund vs. Rackliffe*, 192 Mo. 312, 323. If the contract contain no time limit but the letting notice did specify a limit, which formed the basis of the bids, such limit will be considered as intended: *Turner vs. Springfield*, 117 Mo. App. 418.

Delays caused by injunctions, bad weather, etc. (when not contracted against) furnish no excuse: *McQuiddy vs. Brannock*, 70 Mo. App. 535, 543-545, approved in *Trust Co. vs. James*, 77 Mo. App. 616; and even when the contract contains a saving provision against delays on account of such matters the tax-bills are void if the work is delayed beyond the specified time for reasons other than those excepted: *Springfield vs. Schmook*, 120 Mo. App. 41.

And where the work is not completed within the time required, the Municipal Assembly cannot, after the expiration of such time, extend the time for completion and no valid tax-bill can issue; vitality cannot be given to an expired and forfeited contract: *Neill vs. Gates*, 152 Mo. 585; *Hund vs. Rackliffe*, 192 Mo. 312, 322 *et seq.*, distinguishing the cases; see also *Spalding vs. Forsee*, 109 Mo. App. 675; *Barber Asp. Co. vs. Ridge*, 169 Mo. 376.

But, prior to the expiration of the time fixed for the completion of the work and during the life of the contract, the assembly may enact a valid extension of the time, and in the absence of fraud, the courts will not interfere with the legislative determination as to what is a reasonable extension: *Hund vs. Rackliffe*, 192 Mo. 312, 325; see also *Hilgert vs. Barber Asp. Co.*, 108 Mo. App. 384, 395 *et seq.* and cases cited. So where no time is fixed and the extension is given before the expiration of a reasonable time: *Sparks vs. Villa*, 99 Mo. App. 489.

Delay in the *letting* of the contract (the terms of the contract being observed by the contractor) after the passage of the ordinance, will not defeat recovery on the tax-bill: *Jaicks vs. Middlesex*, 98 S. W. 759 (Sup. Ct. Mo., Dec. 22, 1907).

Specific appropriation: See R. C., sec. 1920. The provision of sec. 28, Art. VI, applies only to contracts for work to be paid out of the city treasury; the limit put on the price to be paid is the amount of the specific appropriation, not the estimate submitted to the assembly by the B. P. I. The section has no application to work to be paid for by special tax-bill against the realty affected by a sewer construction: *Hill vs. Swingley*, 159 Mo. 45, 48.

See remarks as to the wisdom of such requirements of specific appropriations by Marshall, J., dissenting in *Pryor vs. K. C.*, 153 Mo. 151.

A contractor cannot recover for work, under order of a city official, in excess of the appropriation therefor: *Perkinson vs. St. Louis*, 4 Mo. App. 322.

Estimate of cost: See cases in note to sec. 15 of this article; see also *Hill vs. Swingley*, *supra* 159 Mo. l. c. 48; *Bambrick vs. Campbell*, 37 Mo. App. 460, 464; *Kinealy vs. Gay*, 7 Mo. App. 203; *Seibert vs. Cavender*, 3 Mo. App. 421; *Sherwood, J.*, dissenting in *Verdin vs. St. Louis*, 131 Mo. l. c. 133.

Suspension of work on complaint of citizens, and investigation by B. P. I., etc.: Ordinances carrying out this charter proviso, and providing for investigation on complaint of tax-paying citizen, etc., see Rev. Code, secs. 1922-1932 inclusive.

As to reduction of amount of tax-bill for imperfect work see sec. 25 of this article and note thereto; as to pro tanto recovery where ordinance partially void see sec. 15 hereof.

Sec. 29. Street sprinkling authorized by ordinance—special tax bills therefor issued in favor of city—contracts made annually by B. P. I.—sprinkling district—date of special tax lien—interest—cost of sprinkling paid out of city treasury—City reimbursed by special tax bills.
—The Mayor and Assembly shall have power within the city by ordinance to cause the streets and public places of the city, or any part thereof, to be sprinkled, and the cost thereof to be provided for and defrayed by a special tax to be assessed in favor of the city on the adjoining property fronting or bordering on the streets or public places where such sprinkling is proposed to be done, in the proportion that the linear feet of each lot fronting or bordering on the street or public place so to be sprinkled bears to the total number of linear feet of all property chargeable with the special tax aforesaid in the territory embraced by the contract under which said sprinkling is to be done. The above work shall be contracted for annually by the Board of Public Improvements at such time and under such terms and conditions as shall be provided by ordinance, and the city shall be divided into at least forty sprinkling districts for the above purpose, and each district shall be let separately. The special tax bills spoken of shall be and become a lien on the property charged therewith from the first Monday in April in each year, and shall be *prima facie* evidence of the liability of the property charged therewith to the extent and amount therein specified, and may be collected of the owner of the land in the name of and by the City of St. Louis as any other claim in any court of competent jurisdiction, with interest at the rate of six per cent per annum from the first day of May in each year, and if not paid by the first day of June in each year, then at the rate of eight per centum per annum from the first day of April in each year, and they shall be issued and collected in the manner hereafter provided by ordinance. The cost of the sprinkling shall be paid out of the city treasury to the contractors, and the City Treasurer shall be reimbursed for such expenditures by the proceeds of the special tax bills aforesaid.

Amendment enacted at charter election held Oct. 22, 1901.

Ordinances concerning street sprinkling: See Rev. Code, Chapter 12, Art. 3, secs. 941-1082; sprinkling between street car tracks by car companies: *R. C.*, sec. 1901.

Special taxation for sprinkling as provided under the charter of Kansas City was held to be unauthorized and in violation of fundamental law and not within the taxing power, by Judge Phillips, in *N. Y. Life Ins. Co. vs. Prist*, 71 Fed. (C. C.) 815.

ARTICLE VII.

WATER WORKS.

SECTION

1. Water commissioner; his term, bond, etc.
2. Water commissioner to assume charge of the department, etc.
3. Contracts for work to be submitted to council.
4. City to be liable for real estate taken for water-works, etc.
5. Laying of water pipe.
6. Owners of buildings may be compelled to take out water license as a sanitary measure, etc.
7. Assessor and collector of water rates—clerks, duties, etc.
8. His salary and bond.

SECTION

9. Collections to be deposited in treasury daily—monthly statement to comptroller.
10. Issue of water licenses, etc.
11. Assembly may regulate water rates—revenue from water-works, how applied.
12. Water rates to be fixed so as to pay current expenses of works and interest on water-bonds—exceptional discriminations forbidden.
13. Sale or lease of water-works forbidden—fund to renew and extend water-works, and to pay interest and principal of water bonds.

Sec. 1. Water commissioner—his term, bond, etc.—The water works, except the assessment of water rates and the collection of the revenue therefrom, shall be under the control and management of a commissioner, to be known as "Water Commissioner," who shall be appointed by the Mayor, and confirmed by the Council, and shall be a duly qualified engineer, hold office for four years, and give such bond as may be required by ordinance. He shall appoint such subordinates as may be necessary for the management and efficient operation of said water works as may be provided by ordinance.

Charter, Art. IV, sec. 37, designates the general powers and duties of Water Commissioner; Art. 1, sec. 1, and Art. III, sec. 26, clause 2, confer power to establish and maintain waterworks.

For ordinances see Rev. Code, secs. 1957-1963, inclusive, and secs. 2001, 2005-2010.

Statutes: R. S. 1899, sec. 6488, confers power on city to contract to supply other municipalities with water from its works, also persons and corporations beyond the city limits; sec. 6489 authorizes procurement of water from other cities; sec. 6490 authorizes laying of pipes, etc., to carry out the foregoing sections; sec. 6491 provides condemnation proceedings, etc.

Sec. 2. Water commissioner to assume charge of the department, etc.—Upon the appointment of the Water Commissioner under this Charter, he shall take charge of the water works, and all the appurtenances thereto, and shall assume supervisory control over the operation of the same, and enforce the performance of all existing and future contracts and work; and it shall be the duty of the Board of Water Commissioners, and all other persons having charge of the water works, or connected therewith, upon demand of said Commissioner, to turn over all books, records, property and assets belonging to said water works to said Commissioner, and thereupon the official terms of said Board of Water Commissioners and their appointees shall cease and determine.

Sec. 3. Contract for work let by Commissioner to be submitted to Council.—The doing of all work, and the furnishing of all materials and supplies for the water works, shall be let out by the Commissioner in the same manner as other public work, except in cases where it is not practical to do such work or furnish such materials by contract; and all contracts shall be submitted to the Council for approval.

Ordinance provision R. C., sec. 1957, follows this section; see note thereto.

Sec. 4. City to be liable for real estate taken for water works, etc.—The City of St. Louis shall be liable for all damages that may be sustained by any person in his or her property, by the taking of any real estate, for the purposes necessary for the efficient operation of its water works, and if the amount of compensation to be paid to any such owner or owners can not be amicably agreed upon between the city and such owner or owners, then application may be made by the City Counselor, on behalf of the city, to the Circuit Court of the Eighth Judicial Circuit, for assessment of such damages, in the same manner as is prescribed in this Charter in the matter of street openings.

Where condemnation is authorized only in case no agreement can be otherwise attained, the proceeding to condemn must show such inability to agree: *Graf vs. St. Louis*, 8 Mo. App. 562. See other cases cited in note to sec. 2 of Art. VI of the Charter.

For condemnation in street openings see Charter, Art. VI, secs. 1 to 12, and notes thereto.

Sec. 5. Laying of water pipe.—Whenever a majority in interest of the property-holders on any street, avenue, lane or alley, in the City of St. Louis, shall hereafter petition for water pipe to be laid along such street, avenue, lane or alley, and the laying of the same is authorized by ordinance, or whenever the Assembly shall, by a vote of two-thirds of all the members elected to each branch, declare the laying of water-pipe on any street, avenue, lane or alley, to be necessary, the Water Commissioner shall cause the same to be laid; and the cost of laying all such pipe shall be paid as provided by ordinance.

The City of St. Louis has power to contract for the appropriation to its own use of water mains laid in a public street by private citizens at their own expense but with the consent of the city, at a time when the city was short of money; and the city may pay therefor out of its revenue and make it a part of its waterworks system: *State ex rel. vs. St. Louis*, 169 Mo. 31 (holding also that such acquirement is not controlled by the provisions relating to letting of Public Work).

An ordinance for laying water pipes is valid although not declaring the laying to be necessary; the passage of the ordinance is equivalent to such averment and action thereon; nor is the ordinance invalid because it fails to show a two-thirds vote, the presumption being, in the absence of a contrary showing that it was legally passed: *Young vs. St. Louis*, 47 Mo. 492.

Sec. 6. Owners of buildings may be compelled to take out water license as a sanitary measure, etc.—The Water Commissioner may require owners or lessees or their agents, of houses, stores and other buildings in the city, or in such part thereof as he is ready to supply, to take out license for the use of water for such house, store or building, according to the rates and assessment as fixed by ordinances of the city for the use of water, whenever the Board of Health of the City of St. Louis shall, by order duly made, declare that the use of water from the water works of the city in any such house, store or building, is demanded as a sanitary measure for the preservation of the health of the inmates or inhabitants of such house, store or building; and the said rate and assessment shall be paid by all such proprietors, owners or lessees, or their agents, as well by those who consent as by those who refuse to place in their houses, stores and buildings the water pipe to convey the same, and shall be payable whenever the Assessor of Water Rates shall have notified the proprietor, owner, lessee, or his or her agent, of the readiness of said Water Commissioner to supply such house, store or building with water as aforesaid. The parties who fail or neglect to comply with the provisions of this section shall be subject to penalties as may be provided by ordinance.

See ordinances in pursuance of this section: *Rev. Code*, secs. 2462 to 2664. See also *St. Louis vs. Tiefel*, 42 Mo. 578, 1. c. 593.

Sec. 7. Assessor and Collector of Water Rates—clerks, duties, etc.—The assessment and collection of water rates shall be under the control and supervision of an Assessor and Collector of Water Rates, who shall be appointed by the Mayor, and confirmed by the Council. He shall have authority to appoint such clerks and assistants as may be authorized by ordinance. It shall be the duty of said Assessor and Collector to collect all revenue due, or to become due, to the City of St. Louis for water, or accruing to the City of St. Louis on account of the water works thereof, in virtue of any ordinance now existing or hereafter to be passed.

For ordinances relating to Assessor and Collector of Water Rates see Rev. Code, Chap. 38, Art. 1, sec. 2447 *et seq.*; duties, sec. 2456; clerks and assistants, 2451, 2452, 2455.

Sec. 8. His salary and bond.—The Assessor and Collector of Water Rates shall receive a salary to be fixed by ordinance, not exceeding three thousand dollars a year, and shall give a bond of one hundred thousand dollars, with not less than four good sureties, owners of unincumbered real estate, within the City of St. Louis, of the assessed value of one hundred thousand dollars, to be approved by the Mayor, conditioned that he will faithfully and punctually collect and pay to the Treasurer of the City of St. Louis all moneys due and collectible for and on account of the water works, and that he will faithfully perform all the duties of his office according to law.

Ordinance fixing salary: R. C., sec. 2449; bond: Rev. Code, sec. 2450. His salary cannot be increased during the term, and the period he holds over after the regular four year term is a part of his term so that an increase in salary does not apply to that period: *State ex rel. vs. Smith*, 87 Mo. 158; and he and his sureties on his bond are liable for breaches during such holdover period: *Ibid* 1. c. p. 160, citing *Long vs. Seay*, 72 Mo. 648 and *State ex rel. vs. Kurtzeborn*, 78 Mo. 99.

Sec. 9. Collections to be deposited in treasury daily—monthly statement to Comptroller.—At the close of each day, the Assessor and Collector of Water Rates shall deposit in the city treasury the revenue collected during the day, taking triplicate receipts for the same, one of which shall be deposited with the Comptroller, and one with the Auditor. Every failure in this respect shall be reported to the Mayor, upon which the Mayor may suspend or remove said Collector. He shall monthly furnish the Comptroller with a full and complete statement of all collections made by him, also the number of blank licenses not used.

Ordinance provisions are the same: Rev. C., secs. 2457, 2460.

Sec. 10. Issue of water license, etc.—The Comptroller shall countersign all blanks received from the Register for water license, and shall issue the same to the Collector and Assessor of Water Rates, taking his duplicate receipts therefor, one of which he shall file with the Auditor. The Comptroller is further instructed to examine the monthly statement of the said Assessor and Collector, and to certify to the Auditor whether it is correct or not.

See R. C., sec. 2459.

Sec. 11. Assembly may regulate water rates—revenue from water rates, how applied.—The Assembly may make alterations in the prices or rents to be paid for the use of water from the water works, and the whole net income from rents and receipts of the water works, in excess of what may be necessary for completing, constructing, operating and repairing the

water works and for interest on water bonds shall be transferred quarterly to the fund commissioners of the City of St. Louis, and shall be by them invested in St. Louis Water bonds, if the same can be done advantageously, and if not, in other bonds of the City of St. Louis; and if none such are procurable, then in bonds of the State of Missouri, or the United States, and the whole sum so invested shall be set apart as a sinking fund, solemnly appropriated to and for the payment of the bonds issued for the erection of the water works, denominated "St. Louis Water Bonds," and shall be applied solely to that purpose until the whole of said bonds be fully paid; and the fund commissioners shall, whenever required by the Assembly or either branch thereof, render a just, true and full account of all their receipts, payments and proceedings under this section.

Ordinances fixing water rates, licenses, and regulations, see Rev. Code, Chapter 38, Art. 3, secs. 2468-2503. See also notes of cases cited there. As to Water Bonds see R. C., Chap. 38, Art. 2, secs. 2528-2530 inclusive.

Authorities: As to effect of payment of a consumer of city water under express or implied threat of shutting off the water, and the exaction by the city of illegal rates; and also as to nature of obligation resting in contract not taxing power, and right to require particular hydrant, and matters of that kind, see Rev. Code, note to heading of Art. 3 of Chap. 38; and to secs. 2468, 2482.

Sec. 12. Water rates to be fixed so as to pay current expenses of works and interest on water bonds—exceptional discriminations forbidden.—The water rates shall be fixed at prices that shall produce revenue sufficient at least to pay the interest upon the city water bonds, and the running expenses of the water works department. No water rate shall be allowed or fixed by any other principle or consideration than that of producing revenue, and exceptional discriminations in rates are forbidden.

Ordinances fixing water rates: R. C., secs. 2468-2502. See note to heading of Art. 3 of Chap. 38.

Sec. 13. Sale or lease of water works forbidden—fund to renew and extend water works, and to pay interest and principal of water bonds.—The water works shall never be sold, leased or otherwise disposed of. The Assembly shall have power from the income, rents and receipts of the water works to provide a fund for the renewal and extension thereof, and for the payment of interest and principal of bonds issued for such renewal or extension.

This section is as amended at the charter election of Oct. 22, 1901. Submitted by ordinance 20444.

ARTICLE VIII.

PUBLIC PARKS.

SECTION

1. Park commissioner—term of office and bond—reports, etc.
2. Appointment of assistants, etc.
3. Annual appropriation for parks—entrance and exit gates.
4. Authority of municipal assembly to sell

SECTION

- or lease parks—action to be ratified by popular vote.
5. Proceeds of O'Fallon park bonds to be turned over to the fund commissioners.
6. Repeal of special park acts.

Section 1. Park Commissioner—term of office and bond—reports, etc.—The public parks, places and squares of the city, except Tower Grove Park, shall be under the supervision and control of a commissioner, to

be known as the "Park Commissioner," to be appointed by the Mayor, and confirmed by the Council, who shall hold office for four years, and until his successor is appointed and qualified, and give bond for the faithful performance of his duties in the sum of at least ten thousand dollars, with at least two sureties, residents of the city and owners of unincumbered real estate in said city. He shall keep a record of all receipts and expenditures on account of said parks, squares and public places, and make a monthly report of the same to the Comptroller.

Ordinances concerning public parks, and regulations, etc., see Rev. Code, Chapter 25, secs. 2018 to 2035 inclusive. And see note to heading (Chap. 25) giving references to the various provisions relating to parks in general, as well as to the respective city parks in particular. As to Tower Grove Park (which is specifically excepted from the charter provisions) see Session Laws Mo. 1867, pp. 172 et seq.; Session Laws 1872, p. 469, and Laws 1871, p. 189, all set out herein in "Laws Specially Applicable to St. Louis," Chapter 23, secs. 400-426 inclusive, ante pp. 170-173.

As to the Park Commissioner and his office see Charter, Art. IV, sec. 39; Rev. Code, secs. 1970 to 1975; and as to his employees and salaries, secs. 2000-2002, 2015-2017. Under its Charter powers the city can provide rules for the management and government of the parks, and secure by contract some one to serve refreshments therein for the service of the public; the control of the city is a discretionary one and a matter of local concern, the park being held and owned by the city, not in its political or governmental capacity, but in a quasi-private capacity, in which the municipal authorities act for the exclusive benefit of the corporation whose interests they represent: *State ex rel. vs. Schweickardt*, 109 Mo. 497.

A public park is a public use authorizing condemnation of private property therefor by proper proceedings: *County Court vs. Griswold*, 58 Mo. 175 (upholding establishment of Forest Park under the act "repealed" by sec. 6 of this article); *Kansas City vs. Ward*, 134 Mo. 1. c. 177; *Shoemaker vs. U. S.* 147 U. S. 282, 297.

But it must be established at the expense of those to be benefited by it, and must be for public and municipal purposes: *State ex rel. vs. Leffingwell*, 54 Mo. 458, 471 *et seq.*

Special taxation upon those specially benefited, to pay the cost (as in case of streets) is sustained: *Kansas City vs. Ward*, 134 Mo. 172, 178; *Shoemaker vs. U. S.*, 147 U. S. 282, 302; *Kansas City vs. Bacon*, 147 Mo. 259, 273; *Craighill vs. Lambert*, 168 U. S. 611.

Sec. 2. Appointment of assistants, etc.—It shall be the duty of the Park Commissioner to execute all ordinances of the city regulating the management and improvement of the public parks, squares and places of the city, and for this purpose shall have authority, with the approval of the Mayor, to appoint such assistants and employees as may be provided by ordinance.

See references to ordinance provisions in note to preceding section.

Sec. 3. Annual appropriation for parks—entrance and exit gates.—The Municipal Assembly shall, as in its judgment may be deemed necessary, annually make such appropriation, but not less than thirty thousand dollars, out of the revenue of the city, for the purpose of embellishing, improving, and keeping in order all the parks and squares and places under the supervision of the Park Commissioner. Every public park of the City of St. Louis shall be provided with at least one entrance and exit for public use on each side thereof, appropriate to the purpose for which said park may be used.

Sec. 4. Authority of Municipal Assembly to sell or lease parks—action to be ratified by popular vote.—The Municipal Assembly shall have authority, upon the recommendation of the Board of Public Improve-

ments, to provide by ordinance, for the sale, or lease, of any of the parks, places and squares under the supervision of said Board, but such ordinance shall provide that the proceeds of the sale of any such park, place or square shall be paid to the fund commissioners of the city, and that all rentals shall be placed to the credit of the Board of Public Improvements, for the improvement and embellishment of the parks of the city: *Provided, however*, that no such sale or lease shall be made by the Municipal Assembly unless the ordinance providing therefor be submitted to a vote of the qualified voters of the city for ratification at a general election, and it be ratified by a majority of the qualified voters of the city.

See also power to "inclose, improve, regulate or sell all parks and other public grounds," Art. III, sec. 26, clause 3. Ordinances providing for lease for residence purposes of buildings in certain parks, see R. C., secs. 2025-2026; leasing boat privileges, sec. 2027 *et seq.*

A contract pursuant to ordinance, made in writing by the Board of Public Improvements of the City of St. Louis, with one for the exclusive privilege of selling refreshments and intoxicating liquors in Forest Park, and giving the so-called "lessee" possession of certain buildings on the premises, is held not to be in effect a technical lease nor in violation of the provisions of the Charter that no sale or lease shall be made unless the ordinance providing therefor shall be submitted to a vote of the people: *State ex rel. vs. Schweickardt*, 109 Mo. 496.

Sec. 5. Proceeds of O'Fallon Park bonds to be turned over to fund commissioner.—It shall be the duty of the Auditor of the County of St. Louis, and the presiding justice of the county court thereof, after the adoption of this Charter and upon demand of the Mayor of the city, to draw a warrant on the county treasurer in favor of the fund commissioners of the City of St. Louis for the amount realized by the sale of bonds authorized by an act approved March 22, 1875, entitled "An act to amend an act entitled an act to establish O'Fallon Park in St. Louis County, and authorizing the county court of St. Louis County to issue bonds for the purchase of lands therefor, and for the government of the same when established, approved March 27, 1874," and the fund commissioners shall purchase the bonds of the city for the same.

Sec. 6. Repeal of special park acts.—An act entitled "An act to establish Carondelet Park in St. Louis County, and authorizing the county court of St. Louis County to issue bonds for the purchase of lands therefor, and to provide for the government of the same when established," approved February 25, 1874, and an act entitled "An act to establish Forest Park in the County of St. Louis, to provide for the establishment and government thereof, and to provide for the issue of bonds by the county court of St. Louis County, for the purposes of said park, and for the purchase and condemnation of lands for the same," approved March 25, 1874, and an act entitled "An act to establish O'Fallon Park in St. Louis County, and authorizing the county court of said county to issue bonds for the purchase of lands therefor, and for the government of the same when established," approved March 25, 1874, are hereby repealed.

See note to heading of Rev. Code, Chap. 25, and authorities cited bearing on this section.

ARTICLE IX.

HARBOR AND WHARF DEPARTMENT—HARBOR.*

SECTION

1. Harbor and wharf commissioner.
2. Official term and bond—salaries, deputies, etc.
3. Harbor of the city.
4. Jurisdiction of commissioner.
5. Authority and duties of commissioner.
6. Wharfage and levee dues, how collected, etc.

SECTION

7. Collections to be credited to harbor fund.

WHARF-BOATS.

8. Mooring of wharf-boats, etc.
9. Owners of wharf-boats forbidden to receive commissions or charge storage.
10. Wharf-boats not to affect wharfage dues.

*For charter power of the assembly over harbor and wharf see Charter, Art. III, sec. 26, clause 4.

For municipal Harbor and Wharf regulations, boundaries, offenses, etc., see ordinances and the authorities and comments appended thereto in the notes, in Rev. Code, Chap. X, Art. 1, being sections 345 to 372.

For wharfage, rates, leases of wharf, see notes and comments to Rev. C., secs. 373-383; see note to sec. 379 for leasing portions of wharf; and note to heading of Art. 2 of Chap. X (preceding sec. 373) for right to collect wharfage.

For wharf-boat regulations, licenses, etc., see Rev. Code, Chap. X, Art. 3 (sections 384-392); on wood *wh.* Art. 4 (secs. 393-404, also 375); on scavenger dumps *wh.* Art. 5 (secs. 405-412).

For ferry regulations, licenses, etc., and power of city over ferries, see comments in notes to Rev. Code, Ch. X, Art. 6, secs. 413-436 (especially sec. 413).

For provisions relating to Harbor and Wharf Commissioner, see in addition to this (Art. IX) Art. IV, sec. 38 of the Charter; and for ordinances thereon see Rev. C., secs. 1964-1969, 1999; for employees, secs. 1965, 2012-2014, and 411.

Section 1. Harbor and Wharf Commissioner.—There is hereby created a department of the city government called the Harbor and Wharf Department, which shall be under the jurisdiction and control, subject to the provisions of this Charter, and of ordinances not conflicting therewith, of an officer who shall be styled the “Harbor and Wharf Commissioner.”

See foregoing note to heading of this article, referring to the provisions concerning the commissioner and his office.

Sec. 2. Official term and bond—salaries deputies, etc.—The Harbor and Wharf Commissioner shall be appointed by the Mayor and confirmed by the Council. He shall hold his office for the term of four years, and until his successor is duly qualified. He shall give personal attention and devote the whole of his time to the duties of his office, and for the faithful performance thereof shall give such bond, and for such sum as may be provided by ordinance. He shall receive a stated salary for his services, in such sum as may be fixed by ordinance, and, with the approval of the Mayor, may appoint such deputies and assistants as may be provided by ordinance.

Commissioner's salary and bond: R. C., ~~sec.~~ 1999.

Deputies and assistants: R. C., secs. 2012-2014, 1965.

Sec. 3. Harbor of the City.—The harbor of the City of St. Louis shall comprise the bed of the Mississippi River, its channels, sloughs, bayous, bars and islands, from the mouth of the Missouri River to the mouth of the Meramec River.

See next note.

Sec. 4. Jurisdiction of Commissioner.—The jurisdiction of the Harbor and Wharf Commissioner shall extend over all the lands, river banks and beach dedicated, condemned, or belonging to the city for wharf purposes within the city, and over so much of the Mississippi River, and to the middle of the main channel thereof, as lies immediately in front of the city over which the city has control.

Boundaries of the city by the Mississippi, jurisdiction, etc., see note to Charter, Art. I, sec. 2.

Boundaries of wharf, see note to heading of Chapter 10 of Rev. Code; also sections R. C. 345-349.

Sec. 5. Authority and the duties of Commissioner.—It shall be the duty of the Harbor and Wharf Commissioner and he is hereby empowered, to direct the landing and stationing of all boats, vessels or rafts arriving at any point within the limits of the city, and to direct the discharge and removal of their cargoes; to superintend the disposition of freight, merchandise and materials for repairs on the river bank; to keep the wharf and the river along the shore free from wrecks and other improper obstructions, and generally to exercise such supervision and control over the wharf and harbor, and to perform such other duties, as may be provided by ordinance.

Commissioner's duties and authority: See Rev. Code, sec. 1964; also in general Chapter X of Rev. Code; Charter, Art. IV, sec. 38. Regulations as to landings, moorings, wreckage, obstructions on wharves, penalties, etc., see R. C., secs. 349-372.

See also "The Maggie P," 25 Fed. 202 (as to contracts by city respecting wrecked boats, etc., and duty to keep levee and harbor free from obstructions, referred to in note to Rev. Code, sec. 355).

Sec. 6. Wharfage and Levee dues, how collected, etc.—The Harbor and Wharf Commissioner shall carefully examine, and, if found correct, certify all bills and claims against the city pertaining to his department. He shall, upon blanks furnished by the Comptroller, make out and deliver to the City Collector for collection all bills for wharfage dues, levee rates, and all other dues whatever to his department, as may be established by ordinance, immediately on the liability therefor accruing, taking duplicate receipts therefor, one of which he shall retain in his office, and the other he shall deliver at least monthly to the Auditor, for charge against the Collector.

See Rev. Code, sec. 1964. See references in next section as to right of city to collect wharfage and as to ordinances on wharfage rates.

Sec. 7. Collections to be credited to harbor fund—All moneys collected from harbor tax, wharfage dues or other sources relating to harbor, as well as all forfeitures, fines and penalties imposed for violation of ordinances duly enacted relating to harbor and wharf, shall be credited to the account of harbor fund.

Ordinances as to wharfage, rates, etc., see Rev. Code, Art. 2 of Chap X, being sections 373 *et seq.* As to the right of the city to charge wharfage for the use of its wharves, the nature of such rights, etc., see authorities in note to heading "Wharfage," in Art. 2 of Chap. X of Rev. Code, citing State and Federal cases.

Crediting fines to harbor fund, see Rev. Code, sec. 372.

WHARF BOATS.

Sec. 8. Mooring of wharf boats, etc.—*Bona fide* owners of steamboats regularly engaged in carrying passengers or freight, or of barges transporting general merchandise by means of steam tow boats, to or from this city,

and none others, may have the right to moor a wharf boat at the paved landing, to be used exclusively for their own boats or vessels upon the terms and conditions provided by this charter and by ordinance; *provided, however*, that said wharf boat shall be owned by the same owners, and in exactly the same proportion as the said boats and vessels are owned.

Ordinances pursuant to this section: Rev. Code, Chap. X, Art. 3, sec. 384.

Sec. 9. Owners of wharf boats forbidden to receive commissions or charge storage.—No person keeping or interested in a wharf boat in the City of St. Louis shall be allowed to charge for the storage or forwarding of any freight or merchandise passed over said wharf boat, nor to receive any commission on said freight or merchandise, nor to charge directly or indirectly any transient or other boats for the privilege of landing at said wharf boat. Any person, association or corporation, violating any provision of this section shall pay to the city a fine of not less than fifty dollars for each offense, and said Commissioner shall report every such violation to the City Attorney.

Ordinances in pursuance hereof: R. C., sec. 385 (seeking to impose, however, a penalty of not exceeding \$250).

Sec. 10. Wharf boats not to affect wharfage dues.—The mooring of any wharf boat shall not affect in any manner the wharfage tax or dues or levee rates, but wharfage shall be collected from each boat landing at any wharf boat as though said wharf boat was not there.

The latter part of sec. 388 of Rev. Code is the same as this provision.

ARTICLE X.

• STREET RAILROADS.

SECTION

1. Authority of municipal assembly in reference to street railroads—may sell franchises or impose a per capita tax, or a tax on gross receipts.
2. May regulate running of cars and rates of fare, and tax property.
3. Surrender of franchises, how effected.

SECTION

4. Uniform gauge required, width of rail prescribed.
5. Companies to keep street between rails in repair.
6. Right of one railroad company to run cars on the track of another.
7. Existing franchises to be forfeited unless put in use within one year.

Section 1. Authority of Municipal Assembly in reference to street railroads—may sell franchises or impose a per capita tax or a tax on gross receipts.—The Municipal Assembly shall have power by ordinance to determine all questions arising with reference to street railroads, in the corporate limits of the city, whether such questions may involve the construction of such street railroads, granting the right of way, or regulating and controlling them after their completion; and also shall have power to sell the franchise or right of way for such street railroads to the highest bidder, or as a consideration therefor, to impose a per capita tax on the passengers transported, or an annual tax on the gross receipts of such railroad, or on each car, and no street railroad shall hereafter be incorporated or built in the City of St. Louis except according to the above, and other conditions in this Charter, and in such manner and to such extent as may be provided by ordinance.

For further charter powers, in addition to those in this article, to grant right to construct railways, subject to the right to amend, alter or repeal, regulate

same, etc., see Art. III, sec. 26, clause 11. As to effect of reservation of right to alter, amend or repeal see cases cited in note to that clause.

For ordinances (and discussion of authorities thereon) enacting numerous regulations for street cars and street railways, see Rev. Code, Chap. 23, Art. 6, sections 1863 to 1903 inclusive, and notes thereto appended as to the power and authority of the city to enact same, and as to the effect thereof. As to whether a violation of those police regulations (such as speed, ringing gong, vigilant watch, etc.) confers a right to recover on a private person injured in consequence, see also note to same.

Power to "license, tax and regulate" street cars is conferred in Charter, Art. III, sec. 26, clause 5, and in pursuance thereof see ordinances in Rev. Code, Chap. 31, Art. 18, sections 2257-2264 inclusive; see discussion and cases on the city's right to charge license taxes, in note to heading of Art. 18 (Chap. 31) of Rev. Code (preceding sec. 2257).

For statutes on street railways, relating specially to St. Louis, see Chapter 33 (secs. 591 *et seq.*) ante p. 213-219, of "Laws Specially Applicable to St. Louis;" and for statutory limitations of cities to grant street railway franchises, see provisions of R. S. 1899, secs. 6116-6119.

The act of 1860 or Third Parallel Law is repealed by virtue of the constitution of 1875 and the provisions of the Charter: *State ex rel. vs. Lindell Ry.*, 151 Mo. 162; for the prior application of the third parallel street law see *St. Louis Ry. vs. So. St. L. Ry.*, 72 Mo. 67; *St. L. Ry. vs. Northw. Ry.*, 69 Mo. 65, s. c. 2 Mo. App. 69.

The state law of 1895 (Julian Law) providing for sales at public auction of all franchises involving the use of streets, was held void because too uncertain and indefinite to permit of intelligent enforcement: *State ex inf. vs. Street Ry. Co.*, 146 Mo. 155.

The Constitution of the State forbids the general assembly to grant street railway franchises in a city without first acquiring the consent of the local authorities, nor can the franchise so acquired be transferred without similar assent: Const., Art. XII, sec. 20 (see cases *infra*, this note).

State policy respecting street railways in St. Louis: Speaking of the constitutional and charter provisions the court in *banc* in *State ex rel. vs. Lindell Ry.*, 151 Mo. 162, after reviewing the street railway legislation and policy of the State, says on pp. 182-183: "Looking at these constitutional provisions, together, it is plain that it was the purpose of the Constitution of 1875, to grant to St. Louis and other cities and localities the benefit of 'home rule' so far as it was possible. . . . This intention is clearly evidenced not only by the affirmative grant of sole power, but by the negating of such power over grants or transfers of such rights to the General Assembly. And when to these provisions we add the power given by its Charter . . . [power over streets] it conclusively appears, hedged about directly and prohibitatively, that the power which the State primarily had over all streets and highways in the State, or in any city of the State, has in St. Louis been transferred to the city," etc. So in *Grand Ave. Co. vs. Lindell Ry.*, 148 Mo. 637, the court in *banc* says, commenting on constitutional and charter provisions (p. 645): "When it is considered that the people of the State have confided the subject matter of street railways in her streets and highways, exclusively to the city, that such control and regulation is a matter strictly within municipal regulation, the ordinances of the city . . . have the force and effect of laws . . . binding on all persons who come within the scope of their operation," etc.

Grant of privileges to street car companies: And under the constitutional provisions, a city may impose such conditions upon which it gives its consent in conferring a franchise or right of way as it sees fit; it is not limited to a mere "yes" or "no," but may prescribe terms and conditions; and if its consent be given on condition, and the condition be void, the railway company is without any right at all: *St. Louis & Mer. R. vs. Kirkwood*, 159 Mo. 239, 252-253, 259. See also *Union Depot Ry. Co. vs. Southern Ry.*, 105 Mo. l. c. 571.

And see in connection herewith, the right of the city to impose conditions and limit the duration of the company's franchise, the opinions in the *Chicago Traction Co. case*, *Blair vs. Chicago*, 201 U. S. 400, loc. cit. 457 *et seq.*; dissenting opinion 499 *et seq.*

Sec. 20, Art. 12 of the Constitution requiring the city's consent to the transfer of street railway franchises is not violated by a lease from a company to an operating company where the ordinance authorizes the several street railway lines, their successors and assigns to lease to certain other corporations: *Moorshead vs. United Ry's*, 119 Mo. App. 541, certified to Supreme Court and affirmed in Feb., 1907 (not as yet reported), holding the United Railways Co. not liable for Transit Co. debts.

As limitations upon all cities in granting franchises to street railway companies see Rev. St. 1899, secs. 6116 to 6119, requiring designation of route, depots, assessment of damages, petition of majority of property owners along the route, etc. But see the interpretations as to damages to property owners, *Nagel vs. Lindell Ry.*, 167 Mo. 89; *Ruckert vs. Grand Ave. Ry.*, 163 Mo. 278.

While franchises are derived directly by ordinance from the city it is by virtue of the delegated power of the State that the city acts, so that the power conferred on the company is derived indirectly from the State, acting through the city as its agent: *State ex rel. vs. Ry.*, 140 Mo. 539, 550; *Hovelman vs. Ry.*, 79 Mo. 1. c. 643, and cases cited. See also *Brewer, J.*, in *Blair vs. Chicago*, 201 U. S. 1. c. 492 *et seq.*; hence a proceeding may be brought to forfeit the franchise, by quo warranto by the State, or at the relation of the city: *State ex rel. vs. Ry.*, *supra*; see also 201 U. S. 1. c. 450. The excess of the company's corporate powers is remediable by the State only, not a private person: *Hovelman vs. Ry.*, 79 Mo. 1. c. 639-640, and cases cited.

But it was held by the court of appeals that the city may resume rights granted by ordinance upon non-compliance with the conditions by the grantees, and may sue in its own name; and the city is entitled to apply to a court of equity for relief against the company for maintaining a public nuisance growing out of a failure to comply with the conditions annexed to the use of the streets by the company: *Springfield vs. Robertson Ry.*, 69 Mo. App. 514.

A street railway in the streets without authority is a nuisance in law. *St. L. & Mer. Ry. vs. Kirkwood*, 159 Mo. 239, 255; see also *Heer D. G. Co. vs. Citizens' Ry.*, 41 Mo. App. 63.

But the granting of rights of way to public street railroads is a proper use to which the city may subject the streets; and the cases deciding that the city cannot authorize such a use of a street by a railroad as will destroy its use as a public thoroughfare (thereby practically appropriating it to the railroad alone) have been held not to apply to a street railroad, unless so defectively constructed as to prevent the current use of the highway by the public in the ordinary course of travel: *Placke vs. U. D. Ry.*, 140 Mo. 634, 637; see also *Morie vs. Transit Co.*, 116 Mo. App. 12, 25. But there does not appear to be any difference so far as the application of the principle is concerned; and this is implied in the opinion in *Nagel vs. Lindell Ry.*, 167 Mo. 89, 97; see also *Ruckert vs. Grand Ave. Ry.*, 163 Mo. 1. c. 278. See authorities when such ordinances are invalid, as authorizing a misappropriation of the public highway, cited in note to Charter, Art. III, sec 26, clause 2; also in note to Rev. Code, Art. 12 of Chap. 11, on "nuisances."

And a street railway company, although authorized to operate on certain streets, must lay its tracks on the street level, or if it raises its tracks and interferes with the abutting owner it is liable for damages: *Farrar vs. Electric Co.*, 101 Mo. App. 140. (See R. S. 1899, secs. 6116-6118, requiring before a franchise is granted to any elevated, underground, or other street railway on, over or under any street or alley, an ascertainment of damages, etc.)

And as to the right and duty of the city to require, under the police power, the street car companies to so operate as not to interfere with a public highway, and when necessary to lower a tunnel under a navigable stream, at the expense of the company, where such a course becomes necessary because of increased travel or changing conditions, see *West Chicago Ry. vs. Chicago*, 201 U. S. 506.

The ordinances by which the city confers on the street car company the right to construct, operate and maintain a street railroad is in effect a contract which the city cannot violate or change so far as its contractual provisions go; and the courts will protect such rights: *Springfield Ry. vs. Springfield*, 85 Mo. 674; *State ex rel. vs. Corrigan Street Ry.*, 85 Mo. 263, 282, and cases cited; *Detroit vs. Detroit Ry.*, 184 U. S. 368; *Cleveland vs. Electric Co.*, 201 U. S. 529.

Nor after the company's rights are vested under the ordinance, can the State legislate to impair the same: *Hovelman vs. Railway*, 79 Mo. 632, 643.

The rights of street railways in the streets are franchises and vested rights which can be mortgaged by the company to which the franchise belongs: *Hovelman vs. Railroad*, 79 Mo. 643, cited with approval in *State ex rel. vs. Ry. Co., infra*.

As to what privileges may be transferred and assigned by a street car company, or subjected to execution, and what not, see *State ex rel. vs. Railway Co.*, 140 Mo. 539 (distinguishing the franchise of being a corporation which cannot be transferred by ordinary conveyance, nor sold on execution, from its corporate franchise privileges of laying tracks, running cars, taking tolls, etc., which can).

As to leasing by one street railway to another see *Moorshead vs. United Rys.*, 119 Mo. App. 541, certified to Supreme Court and affirmed in February, 1907 (not at this writing reported).

The provisions of the Charter do not affect franchises of roads existing prior to the time that the Charter was adopted: *State ex rel. vs. Corrigan Street Ry.*, 85 Mo. 263, 1. c. 262-263; but when extensions of the franchise are given the Charter then applies: *St. Louis vs. Missouri Ry.*, 13 Mo. App. 534; *St. Louis vs. Ry.*, 87 Mo. 263; *Union Depot Ry. vs. Southern Ry.*, 105 Mo. 562, 570. (It may be observed that all street car companies in St. Louis are now governed for one reason or another by the city Charter; and it was the policy to wipe out the special provisions: See *State ex rel. vs. Lindell Ry.*, 151 Mo. 162).

But nothing passes in a grant of privileges, as against the public and in favor of the company or corporation, except such as is clearly expressed or necessarily implied; the grants are to be strictly construed: *St. Louis vs. Railway*, 13 Mo. App. 524, 530; *Blair vs. Chicago*, 201 U. S. 1. c. 463, 467, 471-473, and numerous other cases referred to by the court; see also dissenting opinion 1. c. 498.

Particularly true is this where a claim in the nature of an exemption from taxes, license fees, or other burden, is made by the corporation: See authorities cited in note to Art. 18 of Chap. 31 of Rev. Code, citing amongst other cases *Springfield vs. Smith*, 138 Mo. 645; *Met. Street Ry. vs. N. Y.*, 199 U. S. 1; *New Orleans Street Ry. vs. N. O.*, 143 U. S. 192.

The police powers of the city cannot be contracted away, and the railway corporations remain subject to the exercise of that power by the city irrespective of the ordinance provisions conferring their franchises; such police regulations are binding on the car companies without reference to any question of acceptance by them; and the power of the City of St. Louis concerning police regulations is plenary: See authorities cited in note to sec. 1864 of Rev. Code.

Of course, since the right to legislate is conferred on the law-making power a permit from the Mayor alone purporting to confer authority to construct a railroad, is void: *Lockwood vs. Railroad*, 122 Mo. 86 (steam road in this case, but the principle is of course applicable to street roads, in fact is self-evident).

Provisions and limitations in an ordinance apply to territory annexed to the city subsequently: See note Charter, Art. I, sec. 2; *Blair vs. Chicago*, 201 U. S. 1. c. 489; at least in so far as police power restrictions are concerned: *Westport vs. Mulholland*, 159 Mo. 86.

Sec. 2. May regulate running of cars and rates of fare and tax property.—The Assembly shall have power to regulate the time and manner of running cars, and the rates of fare on street railroads now or hereafter to be built, and the sale of tickets and exchange thereof between the several companies, and to tax the property of street railroad companies in such manner as may be provided by law.

Additional Charter right to regulate fares, hours and frequency of trips: Art. III, sec. 26, clause 11.

Ordinance regulations and adjudications thereon, on time and manner of running street cars, etc., see Rev. Code, secs. 1863-1903 inclusive, and notes thereto appended, as to the powers of the city, etc.; see general note to sec. 1864; speed limits, note to sec. 1865; time schedules, sec. 1867; right of companies to

make rules, note to sec. 1870; fenders, note to sec. 1873; right of way, note to sec. 1888; periodical reports, note to sec 1889; changing rate of fare, note to sec. 1893.

Charter power to license, tax and regulate, Art. III, sec. 26, clause 5.

As to steam railroad regulations see Rev. Code, Ch. 31, Art. 5, and adjudications in notes to sections 1852, 1856, 1857, 1860.

Sec. 3. Surrender of franchises, how effected—Any street railroad company unable or indisposed to carry forward its business may notify the Mayor of such indisposition, and surrender thereby all their chartered rights or franchises, in such manner and under such terms and conditions, as may be provided by ordinance.

Ordinance pursuant to this section: Rev. Code, sec. 1900.

Sec. 4. Uniform gauge required—width of rail prescribed.—An uniform gauge shall be established by ordinance for all street railroads that may be built in the City of St. Louis, and no flat rails shall hereafter be laid down on street railroads now or hereafter to be built, having a less width than two and a half inches in the flange of said rail, which is used by ordinary vehicles.

See Rev. Code, sec. 1879.

Sec. 5. Companies to keep street between rails in repair.—Street railroad companies shall keep the street between the rails and to the extent of twelve inches outside of each rail in perfect repair, as nearly on a level with such rails as practicable and that portion outside the rails shall be of the same material as the street itself, and the Municipal Assembly shall provide by ordinance that bond or other security shall be given by the several companies, conditioned for a compliance with the provision of this section.

Ordinance provision requiring repairs of space between rails, and regulations concerning same: Rev. Code, sec. 1882.

This provision applies to street railways having an extension of their franchises after the adoption of the Charter: *St. Louis vs. Railway*, 13 Mo. App. 524; especially where the company agrees that the ordinance conferring the rights shall be subject to all general ordinances and charter provisions relating to street railways and applicable to extensions: *St. Louis vs. Mo. Ry.*, 87 Mo. 151. (It now applies to every street railway company in the city, and in addition the requirement is universally included in the special ordinances conferring the franchises.) But such a provision does not apply to a franchise wholly granted prior to the charter provision: See *State ex rel. vs. Corrigan Street Ry.*, 85 Mo. 263, 1. c. 282-283. See as to the old State law as to repairs: *St. Louis vs. St. Louis Railroad Co.*, 50 Mo. 94.

An ordinance requiring the street railway company to keep and maintain the space between the rails and two feet on either side of its track, etc., in good repair, does not impose any duty on the company to reconstruct; an obligation to repair is not one to reconstruct; and a subsequent general ordinance cannot require such additional burden without the company's consent, either as an exercise of the police power or as an inalienable right of control over the street: *State ex rel. vs. Corrigan Street Ry. Co.*, 85 Mo. 263 (arising under Kansas City charter); and the same principle applies where it is sought to compel the company to pave the street with designated material—this duty is not included in the obligation to repair: *Kansas City vs. Corrigan*, 86 Mo. 67.

Although a street car company be required to keep the space between its rails in repair, yet for injuries resulting because of the streets being unsafe by reason of said space being out of repair, the city remains primarily liable: *Springfield vs. Robertson Street Ry.*, 69 Mo. App. 1. c. 523.

A special tax-bill for the improvement of a street cannot be avoided by the property owners on the ground that the space between the railway tracks has not been improved by the contractor, where such duty rests upon the railroad

company: *Farrar vs. St. Louis*, 80 Mo. l. c. 393; *Springfield vs. Weaver*, 137 Mo. 650, 668; *Bank vs. Haywood*, 62 Mo. App. 550, 554 *et seq.*

It was at one time held by the Court of Appeals that in the absence of statutory authority, the cost of street improvements cannot be made a lien on the abutting right of way of a railroad company; but this ruling was overruled by the Supreme Court, and the matter is now also regulated by statute: See note to Art. VI, sec. 14, ante p. 398.

And the land of railroad companies used for depot and yard purposes is not exempt from special tax for street improvements: *Nevada vs. Eddy*, 123 Mo. 546, 560; see also *Railroad vs. Decatur*, 147 U. S. 190.

It was held under a case arising in Massachusetts that the legislature of a state may relieve a street car company from the obligation to repair the street between the rails, etc., which it assumed in ordinances conferring the consent of the city, and the city cannot complain that this operates as the impairment of a contract: *Worcester vs. Street Ry. Co.*, 196 U. S. 539.

Sec. 6. Right of one railroad company to run cars on the tracks of another.—Any street railroad company shall have the right to run its cars over the track of any other street railroad company in whole or in part, upon the payment of just compensation for the use thereof, under such rules and regulations as may be prescribed by ordinance, and it shall be the duty of the Municipal Assembly to immediately pass such ordinances as may be necessary to carry this provision into effect.

Ordinances in pursuance of this provision, see Revised Code, secs. 1894 to 1899 inclusive.

The above charter provisions and the ordinances in pursuance thereof have been fully sustained: *Grand Ave. vs. Lindell Ry.*, 148 Mo. 637; *Grand Ave. vs. Citizens' Ry.*, 148 Mo. 665; *Union Dep. vs. Southern*, 105 Mo. 562.

The city cannot confer on one street car company the exclusive use of a street for its own business: *Grand Ave. Co. vs. Citizens' Co.*, 148 Mo. l. c. 672; *Railway vs. Railway*, 132 Mo. l. c. 43. See also *Citizens' Ry. vs. Detroit Ry.*, 171 U. S. l. c. 53. Nor so as to exclude the public from the use of the street as a public thoroughfare: *Nagel vs. Lindell Ry.*, 167 Mo. 89, 97; *Ruckert vs. Grand Ave. Ry.*, 163 Mo. l. c. 278. See also cases cited in note to Charter, Art. III, sec. 26, clause 2.

Sec. 6 of Art. X of the Charter is in pursuance of the constitutional powers conferred on the city. A railway company accepting the provisions of the Charter containing the provision that any company shall have the right to run over its tracks by paying just compensation, such acceptance creates a contract between the city and the company, and is binding on the latter; nor are condemnation proceedings necessary by such other company; the Charter confers the power to make rules and regulations for determining the compensation to be paid, and also confers on the assembly power to make the award of the commissioners reviewable by the circuit court: *Union Depot Ry. Co. vs. Southern Ry. Co.*, 105 Mo. 562; *Grand Ave. vs. Lindell Ry.*, 148 Mo. 637; *Grand Ave. vs. Citizens' Ry.*, 148 Mo. 665.

The phrase "just compensation" as used in the Charter of the city and its ordinance has the same meaning which that phrase has when used in the federal and State constitutions with respect to the exercise of the right of eminent domain, and when thus used "means a fair and full equivalent for the loss sustained by the taking for public use"; and under the ordinance providing that the court may make such order as justice may require, the court may require the company desiring the use of the tracks to give a bond to the other to secure payment of one-half the cost of renewals of rails, etc., where the ordinance further provides for periodical readjustments: *Railway vs. Railway*, 132 Mo. 34.

As to what elements are proper to be taken into consideration in fixing the compensation, see *Grand Ave. Ry. vs. Citizens' Ry.*, 148 Mo. 665; *Grand Ave. Ry. vs. Lindell Ry.*, 148 Mo. 637.

Where all elements of damages have been considered and new claims are thereafter made but which result from the legitimate use of the other company's tracks, injunction is not the proper remedy of the complaining party but plaintiff should follow his statutory remedy: *People's Ry. vs. Grand Ave. Ry.*, 149 Mo. 245.

Sec. 7. Existing franchises to be forfeited unless put in use within one year.—All franchises and privileges to use the streets of the city for street railroad purposes heretofore granted, and not now in use, are hereby declared forfeited and of no effect, unless the company or persons holding such franchises or privileges shall, within one year after the adoption of this Charter, construct the tracks and run street cars upon said streets, to the extent that said streets may then be finished, and also extend such tracks and run cars on such streets as rapidly as the construction of such streets is completed.

By Charter, Art. III, sec. 26, clause 11, every franchise right granted shall cease unless the work of construction shall be begun within one year, etc., and continued to completion with all reasonable practical speed; and the giving of free passes is made cause for forfeiture.

A franchise may be forfeited for non-user; and a city has no right to contract that a forfeiture proceeding must be brought within six months; the State may institute quo warranto to declare a street car company's charter forfeited, and even at the relation of the city, no matter what the ordinance conferring the franchise provides: *State ex rel. vs. Railway Co.*, 140 Mo. 539. A forfeiture proceeding cannot be brought by a private citizen: *Hovelman vs. Railroad*, 79 Mo. 632, citing numerous cases to the effect that the State must bring the proceeding.

But in *Springfield vs. Railway*, 69 Mo. App. 514, it seems to be held that a city can bring a proceeding to annul and declare forfeited the company's rights for non-compliance with the conditions annexed to the use of the streets by it; and at all events, a city is entitled to relief in equity against a nuisance maintained by a company growing out of such failure to observe said conditions.

Where a right of way is granted on condition of completion within a certain time, and that in the event of failure the franchise might be recalled, the provision is a condition subsequent, and the rights are vested, subject to be defeated at the election of the city, for breach of condition, but not at the instance of a private person: *Hovelman vs. Railroad*, 79 Mo. 632; so also where the condition was that the company's shops should not be removed: *Knight vs. Ry.*, 70 Mo. 231.

ARTICLE XI.

FIRE DEPARTMENT.

SECTION

1. Chief of fire department—term of office—duties.
2. Power to purchase horses, etc., with approval of mayor—purchase of engines, apparatus, etc.

SECTION

3. May exercise police power at fires.
4. Regulations as to frame buildings.
5. Chief to inspect all new buildings.

Section 1. Chief of Fire Department—term of office—duties.

The Fire Department of the city shall be under the control and supervision of a "Chief of Fire Department," who shall be appointed by the Mayor and confirmed by the Council, who shall hold his office for four years and until his successor is duly qualified, subject to removal, as provided for other appointed officers. He shall have general charge of the property of the city connected with his department, and shall, subject to the approval of the Mayor, appoint and employ all such officers and employes as may be provided by ordinance.

For charter authority for engine houses, see Art. III, sec. 26, clause 3.

For ordinances on the fire department, its chief, composition of the department, salaries, duties and qualifications of the men, regulations as to right of way, police power authority, and other regulations, see Rev. Code, Chap. 6, sections 285-305 inclusive; for fire and police telegraph department, see Rev. Code, Chap. 7, sections 306-319 inclusive.

For statute relating to Firemen's Pension Fund, etc., see Laws Mo. 1903, p. 87 (set out herein in "Laws Specially Applicable to St. Louis," in Chap. X, secs. 322 to 347); and see ordinances in pursuance thereof, Rev. Code, secs. 304, 305.

Adjustment of damages caused by fire department, when claim is under fifty dollars: Rev. Code, sec. 302.

The city is not liable for damages caused by the carelessness of the employes of the fire department in the discharge of their duties, nor for the insufficiency or defectiveness of the apparatus; the fire department was not created in the proprietary capacity of the city, for its own benefit, but for the benefit of the public, and the officers of that department are not the city's agents in the sense that renders the city liable: McKenna vs. St. Louis, 6 Mo. App. 320; Heller vs. Sedalia, 53 Mo. 159.

Sec. 2. Power to purchase horses, etc., with approval of Mayor—purchase of engines, apparatus, etc.—The Chief of Fire Department shall have power, in cases of emergency, with the approval of the Mayor under such regulations as may be prescribed by ordinance, to purchase or hire such horses and mules as may be necessary for the use of his department, and shall, with the approval of the Mayor, recommend to the Commissioner of Supplies, the purchase of engines and other apparatus for the suppression or extinguishment of fires, in such manner and to such extent as may be provided by ordinance.

Ordinance provision Rev. Code, sec. 239, is pursuant to this provision. Contracts not included in the authority above specified are controlled as provided in Charter, Art. IV, sec. 29; (or Art. VI, sec. 27, if it be public work).

Under the Rev. Ord. 1856, p. 438, the inspector of the fire department had power to order repairs to engine houses where they exceeded fifty dollars: Robinson vs. St. Louis, 28 Mo. 488, holding that it was not necessary that he should use the name of the city in contracting if he made the contract officially as inspector.

Sec. 3. May exercise police power at fires—The Chief of Fire Department and assistant engineers appointed by him shall have the same police powers at all fires as the Chief of Police, under such regulations as may be provided by ordinance.

Ordinance Rev. Code, sec. 296, is pursuant hereto.

INSPECTION OF BUILDINGS.

Sec. 4. Regulations as to frame buildings.—No person shall erect within the limits of the City of St. Louis, as established by the act of the General Assembly of the State of Missouri entitled "An act to revise the Charter of the City of St. Louis, and to extend the limits thereof," approved March 4, 1870, any building or buildings the outer walls of which are in whole or in part constructed of wood, nor upon blocks or squares in the territory added to the city by this Scheme or Charter, that have built upon them six or more substantial dwellings or storehouses, without procuring a permit so to do in such manner as may be provided by ordinance.

See for fire limit ordinances, Rev. Code, secs. 66-68, and note; also see as to wooden buildings Charter, Art. III, sec. 26, clause 12.

Sec. 5. Chief to inspect all new buildings.—It shall be the duty of the Chief of Fire Department to inspect all buildings in the course of construction, and to cause to be carried into effect all ordinances relating thereto.

The duties of Fire Chief under this section were transferred by authority of Art. III, sec. 32, upon the **Building Inspector**: See ordinances Rev. C., **sec. 27**. Also *Magner vs. St. Louis*, 179 Mo. 1. c. 500; note to Rev. Code, Chap. 6.

ARTICLE XII.

HEALTH DEPARTMENT.

SECTION

1. Health commissioner—his official term and bond.
2. Board of Health—meetings, quorum, etc.
3. Duties of commissioner—appointment of employes—may examine premises shall obey orders of the board, and report annually to the board.
4. Nuisances to be reported to commissioner—births, marriages and deaths to be registered—commissioner to have charge of hospitals, asylum, etc.
5. Superintendents of hospitals and employes, how appointed.
6. Abatement or removal of nuisance—notification to owners—cost of

SECTION

- abatement to be assessed as special tax.
7. Contracts for the abatement of nuisances.
8. Proclamation by mayor in time of epidemics—authority of commissioner and board of health in such cases, etc.
9. Commissioner's record and accounts.
10. Duties of physicians in reference to burial certificates.
11. Weekly report of interments to be made to health commissioner.
12. Penalty in case of burial without certificate.
13. Penalty for failure to make weekly report of interments.
14. Record of proceedings of board.

Section 1. Health Commissioner—his official term and bond.

There is hereby created a Health Department of the City of St. Louis, which shall be managed, directed and controlled as provided by this Charter and by ordinances of the City of St. Louis, by a Board of Health as hereinafter provided, and by an officer who shall be denominated the Health Commissioner. He shall be appointed by the Mayor by and with the approval of the Council, and shall perform such duties as may be provided by this Charter and by ordinance. He shall hold his office for the term of four years, and until his successor is duly qualified, be subject to removal by the Mayor as other officers, and shall possess the same qualifications as the Mayor, and shall give bond in such sum as shall be ordained by the Assembly, with at least two sufficient sureties, for the faithful performance of his duties.

The ordinances on the Health Department appear in Rev. Code as Chap. 11, divided into 25 articles (and comprising secs. 437-875). Art. 2 of said Chapter treats of the Health Commissioner and his office and employes (secs. 450-464).

Sec. 2. Board of Health—meetings, quorum, etc.—There is also hereby created a Board of Health which shall consist of the Mayor, (who shall be its presiding officer), the presiding officer of the Council, a Commissioner of Police, to be designated by the Mayor, and two regular practicing physicians, who shall possess the same qualifications as the Mayor. The Health Commissioner shall be a member of said Board and in the absence of the Mayor, the presiding officer. The Board shall meet twice in each week during the year. They may be convened in special session at any time by the Mayor, Health Commissioner, or by any two members of the Board upon written notification served twelve hours before the date of said meeting. Three members of the Board shall constitute a quorum for the transaction of business, and it shall have power to adopt rules and regulations for its government.

These provisions are tracked by the ordinances: Rev. Code, secs. 437, 438.

The members of the Board of Health are not state officers within the meaning of the Constitution relative to appeals: State ex rel. vs. Board of Health, 90 Mo. 169.

The Supreme Court touched upon the functions of the Board of Health in the opinion in State vs. Butler, 178 Mo. 1. c. 303 *et seq.*

Sec. 3. Duties of Commissioner—appointment of employes—may examine premises—shall obey orders of Board, and report annually to Mayor.—The Health Commissioner shall have general supervision over the public health of said city, and see that its regulations, and the laws and ordinances of said city in relation thereto, are enforced and observed and for that purpose he is authorized and empowered to make such rules and regulations, with the approval of the Board, not inconsistent with this Charter or any city ordinance or law of this State, as will tend to preserve and promote the health of said city; to appoint such employes, with the approval of the Board of Health as may be necessary for the execution of his orders; to enter into or authorize and require any employe or police officer to enter into and examine, in the daytime, all buildings, lots and places of every description, within the city and to ascertain and report to him the condition thereof, so far as the public health may be affected by it; to declare and abate nuisances in such manner as may be provided herein, or by ordinance, but all condemnations must first be approved by the Board of Health, whose action thereon shall be final. He shall obey all orders, not inconsistent with this Charter and city ordinances, emanating from the Board of Health, and shall annually report to the Mayor, the general operations of his department during the year then ended, with such suggestions for the improvement of the same as he shall consider expedient.

See ordinance hereon (same as this provision) in Rev. C., sec. 450.

Right of the municipal assembly, through its officers or agent, to enter premises to ascertain conditions for health, cleanliness and safety: Charter, Art. III, sec. 26, clause 12, and note thereto; Right of Mayor to enter to abate nuisances, see Chart., Art. III, sec. 26, clause 6.

Sec. 4. Nuisance to be reported to Commissioner—births, marriages and deaths to be registered—Commissioner to have charge of hospitals, asylums etc.—It is made the duty of all police officers to observe the sanitary condition of their districts, and through the Chief of Police to report to the Health Commissioner promptly any nuisance or accumulated filth found to exist in any portion of the city. The Health Commissioner shall provide for the registration of all births, deaths and marriages occurring within the city; shall have charge of all city hospitals, quarantine, insane asylums, morgue and city dispensary, and with the advice and counsel of said Board of Health, make all necessary rules for the government thereof.

Duty of police to report: See Rev. Code, secs. 631; also 599, 622.

Registration of births and deaths: Rev. Code, secs. 694-697.

Marriage record is kept by Recorder of Deeds.

Charge of hospitals, insane asylums, dispensaries: Rev. Code, sec. 707.

Make rules for same; *ib.* sec. 709.

Quarantine: Rev. Code, Chap. 11, Art. 19, secs. 818-826 and note to sec. 818; see also Charter, Art. III, sec. 26, clause 6.

Sec. 5. Superintendents of Hospitals and employes, how appointed.—There will be a superintendent of the city hospital, a superintendent of the female hospital, a superintendent of the insane hospital, and a superintendent of quarantine when necessary, who shall perform their duties under the general supervision of the Health Commissioner, and shall be appointed by the Mayor, with the approval of the Board of Health, but all other employes shall be appointed by the Health Commissioner, and approved by the Board of Health, except such as may be temporarily in the employ of the Health Commissioner.

For ordinance provisions concerning superintendents and assistants see Rev. Code, secs. 717 and following.

Sec. 6. Abatement or removal of nuisances—notification to owners—cost of abatement to be assessed as special tax.—In order to effect the abatement of nuisances or removal of accumulated filth, the Health Commissioner shall have power, whenever in his opinion such nuisance or filth exists, and after officially so declared of record by the Board of Health, to notify the owner or owners thereof, or his or their agents, to abate or remove the same, either by filling up, draining, cleaning, purifying or removing same, as the case may be, which notice shall be served upon the owner or agent having charge of said property, in the same manner as writs of summons are required to be served in civil cases. If the owner, who shall have been so served with such notice, shall fail, within the time indicated in such notice, which shall be discretionary with said Health Commissioner, to comply with such order, or fail to show good cause to said Health Commissioner why he can not or ought not to comply with such order, for which purpose he shall be entitled to be heard before said Health Commissioner and Board of Health, if he so request it, he shall be deemed guilty of a misdemeanor, and on conviction, shall be fined not exceeding five hundred dollars; and the nuisance shall be abated, and special tax bills rendered against the property in same manner as against non-residents, except that notice by advertisement shall not be necessary. If such service can not be made for the reason that the owner, agents, or other persons having charge of the property upon which the nuisance may exist, can not be found in the city, of which fact the return upon such notice of the officer serving the same shall be conclusive evidence, then the Health Commissioner shall cause such notice to be published in the newspapers doing the city printing, for two consecutive days (Sundays excepted). And if within two days after the service of such notice, or after its publication as aforesaid, such nuisance shall not be abated, or the order observed by the owner, then the Health Commissioner may order the same to be done as hereinafter directed; and the cost of the same, when fully completed, shall be ascertained under the direction of the President of the Board of Public Improvements, in the same manner as special tax bills for street improvements, and the amount thereof shall be assessed as a special tax against the property so improved, or upon which such work has been done, in the name of the owners thereof, of which the books of the Assessor shall be proof, and the certified bills of such assessment shall describe therein the property upon which the work was done. Said bills shall be recorded and shall be collected and paid as provided in this Charter in relation to the collection of other special tax bills, and shall be a lien on said property, and the Health Commissioner shall keep a record of his proceedings in all cases of abatements ordered by him.

See also Charter, Art. III, sec. 26, clause 6. For ordinances pursuant hereto on abatement of nuisances see Revised Code, secs. 636 and following sections; as to special taxation in general see Charter, Art. VI, secs. 14-15, and notes appended thereto.

For discussion of authorities on the subject of nuisances and the abatement thereof see Rev. Code, Chap. XI, Art. 12 (see note to article heading) secs. 584-689.

As to the sufficiency of service of notice provided for prior to abatement of nuisances, see *St. Louis vs. Flynn*, 128 Mo. 413.

As to power of Board of Health to abate and the effect ascribed to its findings and adjudications see *St. Louis vs. Steele*, 12 Mo. App. 570; *St. Louis vs. Schnuckenberg*, 7 Mo. App. 536; also see note to heading of Article 12 of Chap. XI of Rev. Code.

Sec. 7. Contracts for the abatement of nuisances.—All contracts for work contemplated by this section on which special tax bills are to be issued, shall be entered into by the President of the Board of Public Improvements, in the name of the city, based on the estimates of the cost by the President of the Board of Public Improvements, accompanied by reports of surveys and profiles, in cases requiring the same in the judgment of such President, and shall be approved by the Mayor and registered in the office of the Comptroller.

See Rev. Code, sec. 669, and sections preceding the same (666, 667, 662, etc.).

Sec. 8. Proclamation by Mayor in time of epidemics—authority of Commissioner and Board of Health in such cases, etc.—Whenever it shall come to the knowledge of the Mayor that any malignant, infectious or contagious disease or epidemic is prevalent in the city, or will probably become so, he may make proclamation of such fact to the inhabitants; and after such proclamation the Health Commissioner, with the approval of the Board of Health, may have power, by order, to take all steps and use all measures necessary to avoid, suppress or mitigate such disease, without the intervention of the Assembly in the same manner and as effectually as the Assembly could itself do by ordinance, and may employ such officers, agents, servants and assistants, establish temporary hospitals, provide necessary furniture, medical attendance and nurses, as in the opinion of the said Commissioner, with the advice and counsel of said Board of Health, may be necessary and advisable: *Provided*, that the amount expended shall not exceed the appropriation for Health Department. The Health Commissioner shall have and exercise such power until he shall declare, or until the Mayor shall proclaim, that the epidemic or disease, in view of which the proclamation was made, is no longer imminent or prevalent, whereupon the said power shall cease.

The same provision is made by ordinance: Rev. Code, sec. 633; see also Rev. Code, sec. 1501.

See as restrictions upon receiving patients sick with small-pox, cholera or plague, Charter, Art. III, sec. 35.

As to preventing introduction and spread of contagious diseases see Charter, Art. III, sec. 26, clause 6; ordinances, Rev. Code, secs. 792-819.

Sec. 9. Commissioner's records and accounts.—Said Health Commissioner shall keep a record of his acts and orders; shall file all petitions, documents and papers belonging to the office, and shall keep a correct account in full of all receipts and expenditures, and shall make rules and regulations for the government of his subordinates. Copies of such records, documents, rules and regulations, when authenticated by his clerk, shall be presumptive evidence in any court of justice of the facts therein contained: *Provided*, such rules and regulations are not inconsistent with this Charter, or ordinances.

This provision is reiterated by ordinance: Rev. Code, sec. 452.

Sec. 10. Duties of Physicians in reference to burial certificates—For the purpose of carrying the provisions of this article into effect, every physician who may practice medicine in the City of St. Louis shall, when a patient dies under his care, make out two certificates, stating the name, age, sex, color and place of birth, and place and date of death, together with the name of the disease of which said person died, one of which he

shall without delay, deposit in the office of said Health Commissioner, and the other he shall give to the undertaker of the funeral, to be delivered by him to the person who has control of the graveyard in which the body is buried. And if any physician or undertaker refuse or omit to do as aforesaid, he shall forfeit and pay five dollars to the use of the City of St. Louis, to be recovered as provided for in Section 11 [12] of this article.

See carrying out this section, ordinance in Rev. Code, sec. 827, which, however, seeks to impose a higher penalty than as fixed by this provision of the Charter.

Sec. 11. Weekly report of interments to be made to Health Commissioner.—All overseers, sextons or other persons who may have control over public graveyards in the City of St. Louis shall make a weekly report to the Health Commissioner, of all interments during the week in the graveyard, whereof they are such overseer or sexton respectively. Said report shall specify the names and ages of the persons interred, sex, color, and place of birth, and place and date of death, and also the diseases of which said persons died.

Same as Rev. Code, sec. 11.

Sec. 12. Penalty in case of burial without certificate.—If any overseer, sexton, or other person having control of a graveyard, shall permit any person to be interred in said graveyard without a certificate, stating the name, age, sex, color, place of birth, place and date of death, together with the disease of which said person died, signed by the physician who attended said person, he shall forfeit and pay a sum not less than five nor more than twenty dollars, to be recovered as in other cases of misdemeanor, before any court or officer having competent jurisdiction.

See Rev. Code, sec. 831 (which is similar, except that it seeks to increase the penalty to "not less than twenty-five nor more than five hundred dollars").

Sec. 13. Penalty for failure to make weekly reports of interments.—If any overseer, sexton or other person charged with the performance of such duty, fail or neglect to make to the Health Commissioner such report of weekly interments, he shall forfeit and pay not less than twenty dollars for every such failure, to be recovered in like manner as provided in the last preceding section.

See Rev. Code, sec. 832 (which is similar, except that it seeks to fix the penalty at "not less than twenty-five nor more than five hundred dollars").

Sec. 14. Record of proceedings of Board.—The Board of Health shall keep a full and correct record of its proceedings and acts, and the clerk of said Health Commissioner shall act as the clerk of the said Board.

See ordinances: Rev. Code, sections 441, 444.

ARTICLE XIII.

SCHOOLS.*

SECTION

- 1.*
2. City officers to assess school tax.
3. City collector to collect school taxes and to give special bond to board.

SECTION

4. Rate of school taxes to be fixed by board.
5. School taxes collected in extended limits to be remitted if in excess of necessary revenue.

*Sec. 1. [Not in force.]

*Constitutional provisions as to Public Schools and Public School funds: Const., Art. XI. See Scheme, section 37, with note; also sections 13 and 36. Section 1 of this article of the Charter, as originally enacted, is not in force, and is therefore omitted. The present law relating to the public schools in St. Louis, or the "Board of Education of St. Louis," was enacted, and that board created, by the act of March 23, 1897 (Rev. St. 1899, secs. 9919-9951) set out herein, with amendments and subsequent enactments, under "Laws Specially Applicable to St. Louis," sections 497-534, (being Chap. 27 thereof).

It was held (in a case arising under the former law) that the School Board of St. Louis was a public corporation, an instrumentality created by the laws to administer the trust created and assumed by the State for the education of the children of the State. It is neither a private corporation, with vested rights exempted from the general laws of the State, nor a municipal corporation proper but falls within the class of bodies corporate, now designated as public corporations or *quasi* municipal corporations: State ex rel. vs. St. Louis Public Schools, 112 Mo. 213, 218; see also Heller vs. Stremmel, 52 Mo. 309.

A school board election is one by the people within the meaning of the constitutional provisions: State ex rel. vs. St. L. Pub. Schools, *supra*; but a director is not within the meaning of a law disqualifying such officer from another office in a municipal corporation: Heller vs. Stremmel, *supra*; nor is the constitutional inhibition against holding two offices, etc., applicable so as to disqualify one from being at the same time a school director and a deputy sheriff: State ex rel. vs. Bus, 135 Mo. 325 (holding also that these two offices are not incompatible).

A school district is a public corporation in the sense that it is not subject to garnishment proceedings: Kein vs. School District of Carthage, 42 Mo. App. 460.

The St. Louis School Board even under the former act was independent of the city government, except that the city officers extend, collect and turn over the taxes levied by the board: State ex rel. vs. Tracy, 94 Mo. 217, 221.

A board of education is not subject to execution under a judgment, and a school-house and furniture cannot be taken and sold on execution. It would greatly tend to frustrate the design and purpose of the law in respect to common schools, were school buildings and property liable to sale under the hammer; and injunction will lie to prevent such a sale, which though void, would cast a cloud on the property; it seems that the appropriate method of procedure to enforce a judgment against a school board is by mandamus to compel the levying of a tax to pay same: State to use vs. Tiedemann, 69 Mo. 306.

Election law relating to school directors in St. Louis is not void as being special and local legislation: State ex rel. vs. Miller, 100 Mo. 439. And under the law since 1897 when the new act was passed, the school board no longer has the power to provide for the election of its members, and the expense of school board elections, and pay of judges and clerks, is to be paid out of the city treasury, not by the board: State ex rel. vs. Board of Education of St. Louis, 141 Mo. 45.

Under the Constitution fines and forfeitures for state offenses, collected in the St. Louis Court of Criminal Correction, go to the Public School fund and the sheriff must certify same to the President and Directors of the Board, and not pay same into court: In re Staed, 116 Mo. 537.

Sec. 2. City officers to assess school taxes.—The officers of the City of St. Louis, directed by this Charter to assess and extend the State and city taxes, and to perform other duties relating thereto, shall perform the same duties in regard to taxes levied by the Board of President and Directors of the St. Louis public schools (Board of Education of St. Louis).

State, School and City tax-bills, how prepared by assessor, and what to contain: Charter, Art. V, sec. 26. As to proper officers to extend the taxes (under the old law) see *State ex rel. vs. Tracy*, 94 Mo. 217.

Sec. 3. City Collector to collect school taxes and to give special bond to board.—The Collector of the City of St. Louis shall collect all taxes levied by the Board of President and Directors of the St. Louis public schools (Board of Education of St. Louis). Said Collector shall give such bond for the faithful performance of his duties to said Board, and account for and pay over to said Board in such manner and at such times, all school taxes collected by him, as the Collector of St. Louis County was required to do under the laws heretofore in force.

Collector to collect State, school and city taxes: Charter, Art. V, sec. 31, etc. He may establish claim for such taxes against estate of decedent: *State ex rel. vs. Tittmann*, 103 Mo. 553.

Sec. 4. Rate of school taxes to be fixed by the Board.—The Board of President and Directors of the St. Louis public schools (Board of Education of St. Louis) shall determine the rate of taxation for each year by resolution, a copy of which, duly certified according to law shall be handed to the Collector of the City of St. Louis, and to the Register of said city, on or before the first day of August in each year.

The power of the Board to determine the rate of taxation (under the provision of a law similar to that of the above section hereof), and to include a tax on merchants' licenses, for school purposes, is upheld in *State ex rel. vs. Board, etc., of St. Louis Pub. Schools*, 94 Mo. 217.

See also as to power of board to levy and collect taxes *Rev. Stat. 1899, sec. 9939*, and to increase tax levy, *R. S. 1899, sec. 9940* (set forth in "Laws Applicable Specially to St. Louis," herein, secs. 520, 521).

The annual rate for school purposes is fixed by the Const. at not exceeding 40 cents on the hundred dollars but may be increased to one dollar provided a majority of the voters who are taxpayers vote for such increase: Constitution, Art. X, sec. 11.

Sec. 5. School taxes collected in extended limits to be remitted if in excess of necessary revenue.—If the proceeds of taxes levied by the Board of President and Directors of the St. Louis public schools (Board of Education of St. Louis), in any one year, on property in the different wards within the newly extended city limits, should prove to be greatly in excess of amounts needed for the purpose of properly carrying on the education of children residing within such extended limits, then said Board shall by resolution remit such excess. A copy of such resolution, properly authenticated, specifying the percentage remitted in the respective wards, shall be filed by the secretary of said Board with the Comptroller of the City of St. Louis, who shall, in extending the tax, make a deduction equal to such percentage of all taxes levied for school purposes on such property.

ARTICLE XIV.

SINKING FUND.*

SECTION

1. Sinking fund created.
2. Duty of assembly as to appropriations.

SECTION

3. Disbursements to be made on requisitions.
4. Disposition of sinking fund in hands of commissioner.

*The four sections of this article are amendments adopted at an election of June 9, 1891, submitted by ordinance 16033.

Constitutional sinking fund, Const., Art. X, sec. 12 (construed in *Saleno vs. Neosho*, 127 Mo. 1. c. 639 *et seq.*). As to ordinance provisions on sale, transfer payment, cancellation, etc., of bonds, see Rev. Code, Chapter 37 (secs. 2390-2405); as to provisions concerning Water Bonds, see Charter, Art. III, secs. 11, 13, and Revised Code, Chapter 39, Art. 2 (secs. 2528-2530); World's Fair Bonds, see Constitution (amended 1900), Art. X, sec. 12, and note to Charter in Art. III, sec. 26, clause 1; see the latter provision also for power generally of the city to borrow money, etc.

Section 1. Sinking fund created.—There is hereby created a sinking fund for the City of St. Louis, which shall always be kept separate and distinct from other funds and revenues, and held sacred for the purpose of redemption or purchase of bonds issued by said city, which were outstanding on the seventh day of April, eighteen hundred and ninety, and of the bonds issued for the renewal thereof.

Sec. 2. Duty of Assembly as to appropriations.—The Municipal Assembly shall annually appropriate from the fund designated in this Charter as "interest and public debt revenue" a sum not less than one million two hundred thousand dollars to be used exclusively for the payment of the bonds of the city described in Section 1 of this article, and of the interest thereon. That portion of each annual appropriation not required for the payment of the interest coupons maturing during the respective year, shall be credited to, and shall constitute the sinking fund herein created.

Duty to establish rate for payment "sufficient, at least, to meet the requirements of sec. 2, Article 14 of this Charter": See Art. V, sec. 1.

Sec. 3. Disbursements to be made on requisitions.—All disbursements out of the city treasury on account of the sinking fund, shall be upon requisitions of the Comptroller approved by the Mayor; and in all other respects they are to be made in the same manner as other disbursements of the city.

Sec. 4. Disposition of sinking fund in hands of Commissioners.—The assets of the sinking fund now under the control of the Board of Fund Commissioners shall be disposed of as follows: The money on hand, and the proceeds of all matured coupons from city bonds, shall be credited to, and be a part of, the sinking fund herein created; the immatured coupons from city bonds shall be canceled, and filed as other coupons from city bonds are filed. The bonds of the Ohio and Mississippi Railroad shall be turned over to the Comptroller, and deposited in his office; in the event of the city at any time realizing on the same, the proceeds thereof shall be credited to, and be a part of, the sinking fund herein created.

ARTICLE XV.

PUBLIC PRINTING.

SECTION

1. Register to advertise for sealed proposals—opening of bids—contracts to be awarded to lowest bidder and reported to council—specifications of contract—forfeiture of same—contract for job printing—temporary contract authorized.
2. Publication of ordinances—abstract of

SECTION

- proceedings of assembly—second printing of documents forbidden, except by two-thirds vote—annual printing of city documents in pamphlet form.
3. Proofs of printing to be submitted to officers interested.

Section 1. Register to advertise for sealed proposals—opening of bids—contracts to be awarded to lowest bidder and reported to Council—specifications of contract—forfeiture of same—contract for job printing—temporary contract authorized.—All printing and binding to be done at the expense of the city shall be contracted for as follows, to-wit: The Register shall advertise in the newspapers published in the city, of a uniform daily circulation of over three thousand copies (so far as he may be informed thereof), a proposal for sealed bids in writing for doing the city printing to be done in city newspapers of said daily circulation, for one year, one published in the English and one in the German language; said advertisement shall state the place, day and hour of the opening of such bids, and shall be made for at least ten days next before such day. The bids shall be opened in the office of the Register, and all bidders may be present thereat. No bid shall be considered in which there shall be any erasure or interlineation. In every case the printing shall be awarded to the lowest bidder. The Register shall, without delay, report the bids and awards to the Council. If the Council reject any award, the Register shall proceed without delay as above, for new bids for the kind of printing of the rejected award, and report, as aforesaid, upon the same, and so on until the Council confirm the awards for all the aforesaid printing. Every contract for printing, in pursuance of any award, shall specify the printing and the price therefor, and require the doing thereof within reasonable time. The printing meant in this article includes everything of labor, skill and materials, for bringing the work to the condition for its intended use and purpose. If any bidder fails to perform the contract as therein required, the same shall be subject to forfeiture by the Mayor. All job printing and binding shall be let by contract, subject to such regulations as may be prescribed by ordinance. Until the contract be made as aforesaid for any authorized printing, at the expense of the city, the same may be contracted for by the Register, with the approval of the Mayor.

Section 2036 of the Rev. Code carries out the provisions hereof.

Sec. 2. Publication of ordinances—abstract of proceedings of Assembly second printing of documents forbidden, except by two-thirds vote—annual printing of city documents in pamphlet form.—Every ordinance passed by the Assembly shall be published in the papers doing the city printing within five days after its approval. The Assembly shall cause an abstract of its proceedings to be published within forty-eight hours after the meeting at which they were had. Such abstract shall briefly state the substance of all petitions, memorials, remonstrances, motions, propositions, bills, resolutions and orders, and the yeas and nays in full whenever taken; also, all communications from the Mayor and other city officers, unless otherwise directed by the Municipal Assembly. No expense for printing the same document the second time shall be incurred,

except when ordered by a vote of two-thirds of the members elected to the Assembly, taken by yeas and nays. The annual messages of the Mayor, and reports of the Comptroller, with the accompanying reports of the other city officers, shall be printed in pamphlet form, the number of copies to be determined by a majority of both houses of the Municipal Assembly by joint resolution.

The provisions hereof followed by ordinance: Rev. Code, secs. 2037, 2038. See also other ordinance provisions following said section. This provision requiring publication of ordinances within five days after approval "was designed to notify the public at as early a period as possible of the passage and provisions of the laws which were to govern them;" and this provision applies only to new ordinances and not to a revision and digest of existing ordinances contained in a general revision: *St. Louis vs. Foster*, 52 Mo. 513, 516.

See as to effect of failure to publish an ordinance, in a case arising under a charter of a smaller city, requiring publication of ordinances, but providing that failure to publish should not render the same void, except under certain conditions, etc.: *Schweitzer vs. City of Liberty*, 82 Mo. 309, 315.

Where a publication is required, a failure to publish generally renders the ordinance void: *Bank vs. Granada*, 4 U. S. C. C. A. 212, 219 *et. seq.*; s. c. 54 Fed. 100 (distinguished in *Alma vs. Bank*, 60 Fed. 203; 8 U. S. C. C. A. 564).

Sec. 3. Proofs of printing to be submitted to officers interested.
—Proofs of all printing shall be submitted to the officer directly interested therein, and no publication or printing shall be done or paid for except when done in the manner herein prescribed.

This provision is re-enacted by ordinance: Rev. Code, sec. 2039. When printing is done under an unauthorized contract, no recovery can be had against the city, and the municipal assembly cannot lawfully provide that it shall be paid for; such an appropriation would be a donation of city money and is prohibited by law: *Campbell vs. St. Louis*, 71 Mo. 106.

ARTICLE XVI.

MISCELLANEOUS PROVISIONS.

SECTION

1. Existing ordinances, contracts, etc., to remain in force until repealed or abrogated.
2. Existing recognizances, obligations, forfeitures, actions, etc., to remain in force.
3. Management of Mullanphy bequest.
4. Street opening ordinances repealed—pending cases to be conducted under former laws—city counselor to act as land commissioner.
5. Mayor to promulgate charter.
6. Appeal bonds by city—mayor to execute such bonds for the city.
7. Execution of city contracts—contracts to be numbered, filed, etc., in register's office—attested copies to be furnished city officers.
8. Citizens of St. Louis exempt from road work.
9. Damage suits against the city—persons and corporations, when liable, to be made co-defendants, and judgments to be first enforced against them.

SECTION

10. Regulation of public processions.
11. Penalty for voting in favor of or allowing unauthorized claims—penalty for the misapplication of public funds.
12. Penalty for violation of provisions of charter.
13. Oath of office.
14. Records of board of police commissioners to be open to inspection.
15. City counselor and attorney to furnish legal advice to police commissioners.
16. Expenses of police force to be paid out of city treasury.
17. Assembly to fix salaries of officers—increase of salary forbidden during term.
18. Limitation of salaries—all fees, etc., to be paid into treasury—officers' salaries to be paid monthly.
19. Amendments to Charter to be submitted to the people.
20. Existing city officers continued in office until April, 1877.

Section 1. Existing ordinances, contracts, etc., to remain in force until repealed or abrogated.—All ordinances in force at the time this Charter and Scheme go into operation, not inconsistent therewith, shall remain in full force until altered or repealed by the Assembly, and all rights, actions, prosecutions and contracts of the city, not inconsistent therewith, shall continue to be valid as if this Scheme had not been adopted.

Under this section only so much of an existing ordinance at the time of the adoption of the Charter is superseded as conflicts with the Charter, the remainder thereof continuing in force: *Quinette vs. St. Louis*, 76 Mo. 402.

As to effect in general of ordinances in conflict with Charter see note introductory to sec. 26 of Art. III of Charter.

Sec. 2. Existing recognizances, obligations, forfeitures, actions, etc., to remain in force.—All recognizances, obligations, and all other instruments entered into or executed to the city before this Charter goes into operation, and all fines, taxes, penalties and forfeitures due or owing to the city, and all writs, prosecutions, actions and causes of action, except as herein or in the Scheme otherwise provided, shall continue and remain unaffected by this Charter going into operation.

That suits, forfeitures and proceedings pending at the time of the repeal of an ordinance are not affected by such repeal see Revised Code, secs. 1405, 1406; see also as to effect of repeal, note to Charter, Art. III, section 28.

Sec. 3. Management of Mullanphy bequests.—The Assembly shall provide by ordinance for the administration of the Mullanphy bequest by a board of thirteen members to be elected by the Council, of whom not more than five shall reside in any one Congressional District, said Board shall receive no compensation for their service.

Mullanphy bequest: For ordinances upon this subject see Rev. Code, Chap. 19, secs. 1654 to 1672 and note at heading of said chapter, discussing the Mullanphy bequest and ordinances, and referring to adjudications touching the same.

Sec. 4. Street opening ordinances repealed—pending cases to be conducted under former laws—City Counselor to act as Land Commissioner.—All ordinances for the opening of any street, avenue or highway, upon which proceedings shall not have been commenced at the time this Charter goes into operation, shall be and are hereby repealed. *Provided, however* the provisions of this Charter shall not be construed to affect any case, pending at the time when said Charter shall become operative, but every such case shall be conducted under the law in force when it was commenced; and any act necessary to be done by the Land Commissioner of the City of St. Louis, in the execution of any such cases after the seventh day of April, 1877, shall be performed by the City Counselor of said city.

That proceedings for street openings begun under the old Charter and continued prior to the time when it was finally ascertained that the Charter had been adopted (March 5, 1877) are validated by the *de facto* principle, see note to Charter, Art. VI, sec. 2; also note introductory to sec. 26 of Art. III.

Sec. 5. The Mayor to promulgate Charter.—The Mayor shall, immediately after this Scheme and Charter go into effect, take measures to promulgate the same, by causing them to be printed in pamphlet form, with accurate head notes to each article, and as full an index as practicable.

Sec. 6. Appeal bond by City—Mayor to execute such bond for City.—The City of St. Louis in taking an appeal in any judicial proceedings,

shall give bond as required by law, but is hereby released from the obligation of law to furnish security therefor. All such bonds shall be executed by the Mayor, and shall be taken in all courts as a full compliance with the law in such cases, and all acts or parts of acts inconsistent with this provision are hereby repealed.

See Rev. Code, sec. 1678, as to appeal bond. An appeal in a suit to which the City of St. Louis is a party goes to the Supreme Court, whatever the amount involved, because that city is a political subdivision of the State: *Steffen vs. St. Louis*, 135 Mo. 44, 48-49; *Straub vs. St. Louis*, 175 Mo. 413; *Northcut vs. Eager*, 132 Mo. 265, 273.

Sec. 7. Execution of city contracts—contracts to be numbered, filed, etc., in Register's office—attested copies to be furnished city officers.—All contracts relating to city affairs shall be in writing, signed and executed in the name of the city, by the officer authorized to make the same, after due notice; and in cases not otherwise directed by law or ordinance, such shall be made and entered into by the Comptroller, and in no case by the Assembly or any committee thereof. All contracts not made by the Comptroller shall be countersigned by the Comptroller and filed and registered by number, date and contents, in the Register's office, and attested copies furnished to the Comptroller, Auditor, and such other officers as are interested in the performance thereof as required.

Contracts: Constitution, Art. IV, sec. 48, provides that the General Assembly has no power to . . . pay nor authorize the payment of any claim against State, county or municipality under any contract made *without express authority* of law; and all such unauthorized agreements or contracts shall be null and void.

State Law: No city, etc., shall make any contract unless within the scope of its powers or expressly authorized by law and upon consideration to be performed subsequently; and same *shall be in writing* and dated when made, and subscribed by all parties or agents duly authorized in writing: R. S. 1899, sec. 6759. (An ordinance and written acceptance is sufficient to meet this section: *California vs. Telephone Co.*, 112 Mo. App. 722, 727.) Duplicate copies to be made one to be kept with proper officer, which in case of variance controls: Sec. 6760 (but such filing and execution in duplicate is only to preserve the contract as evidence and is not a condition precedent of its validity: *Saleno vs. Neosho*, 127 Mo. 627, 638). All contractors for public work to give bond, etc.: Sec. 6761; material men or laborers may sue on the bond: Sec. 6762. (On last point see also Rev. Code, sec. 1989: *St. Louis vs. Von Phul*, 133 Mo. 567.)

By the charter also (by this provision, i. e. sec. 7, Art. 16) all contracts *must be in writing*, etc. And by Charter, Art. IV, sec. 46, it is made the duty of the Mayor to see that the contracts of the city are enforced; and it is made the duty of all officers to report all violations to the Mayor; and Art. XVI, sec. 11, makes participation in an unauthorized contract a high misdemeanor, with severe penalties.

And by ordinance, contracts must be in writing, countersigned by proper officer designated or comptroller, etc., filed with register, etc.: Rev. Code, sec. 2395. (The filing is however not a condition precedent to the validity of the contract: See *Saleno vs. Neosho*, 127 Mo. 1. c. 637 *et seq.*). Contracts to be registered, numbered, etc., and be in custody of register: Rev. Code, sec. 2062.

Validity of city contracts and liability of city: Those who deal with the officers of a municipal corporation must ascertain at their peril, that such agents are acting within the scope of their powers; and the city may plead *ultra vires* and the invalidity of a contract made in violation of law: *Cheaney vs. Brookfield*, 60 Mo. 53, 54; *Mister vs. Kansas City*, 18 Mo. App. 217, 227; *Verdin vs. St. Louis*, 131 Mo. 1. c. 98; *Construction Co. vs. Geist*, 37 Mo. App. 1. c. 513; *Keating vs. Kansas City*, 84 Mo. 415; *Carroll vs. St. Louis*, 4 Mo. App. 191; *Pryor vs. Kansas City*, 153 Mo. 135, 142, 150, citing numerous cases.

The city cannot be held on a *quantum meruit* or on an implied contract: See cases *supra*.

Hence where a contract exceeds the appropriation allowed, the city is liable only to the extent of the appropriation: *Mister vs. Kansas City*, 18 Mo. App. 217, approved but distinguished in *Pryor vs. Kansas City*, 153 Mo. 135.

But, of course, where one is otherwise entitled to lawfully recover against the city (as salary out of the general revenue), the fact that there is not enough money appropriated to pay him, will not defeat a judgment on the claim: *Magner vs. St. Louis*, 179 Mo. 495, 501. Nor is one who is entitled to a claim against a city required to obtain a warrant before suing: *Kansas City Loan Co. vs. Kansas City*, 98 S. W. 459 (Sup. Ct., Nov. 21, 1906).

For a case apparently on contract against the city, in which "no law or ordinance requiring it to be in writing was brought to the attention" of the court, and where a verbal contract was held sufficient, see *McQuade vs. St. Louis*, 76 Mo. 46, 48 (but only the title indicates that the suit was against the city; nor is mention made of the provisions first above referred to from constitution, statute and charter); See also "*The Maggie P.*," 25 Fed. 202.

A verbal contract is absolutely void as to a city: *Savage vs. Springfield*, 85 Mo. App. 323, 329 (incapable of ratification), citing the constitution; but the point must be raised in the trial court: *Lancaster vs. Briggs*, 118 Mo. App. 570.

All persons dealing with the city must take notice of the charter and ordinance provisions (see note introductory to Charter), and these enter into and form part of the contract, whether expressly so made or not: *Pryor vs. Kansas City*, 153 Mo. 135, 142, 150; *Carroll vs. St. Louis*, 4 Mo. App. 191; *St. Charles vs. Hackman*, 133 Mo. l. c. 642; *State ex rel. vs. Kent*, 98 Mo. App. 281, 286; see also *San Antonio vs. Altgelt*, 200 U. S. 304, 308; *Citizens Bank vs. Owensboro*, 173 U. S. 636, 644.

Contracts referring to ordinances incorporate the latter in the contract: *St. Louis vs. Gas Co.*, 155 Mo. l. c. 17, and cases cited.

The Municipal Assembly cannot let contracts: see Charter, Art. VI, sec. 27 (public work); Art. IV, sec. 29 (supplies); Art. XV (printing). Compensation on a contract not authorized (such agreement being void), cannot be provided for by the Municipal Assembly; such action would amount to a prohibited donation of the city's money: *Campbell vs. St. Louis*, 71 Mo. 106.

The rule of contemporaneous interpretation of contracts largely controlling their effect in case of ambiguity, applies to contracts with the city: *St. Louis vs. Laclede Gas L. Co.*, 155 Mo. l. c. 1, 19, and cases cited; but see *National W. W. Co. vs. School Dist.*, 48 Fed. 523.

The same equity exists and the same moral obligation rests upon the city to protect those whose labor and material is employed in the improvement of its streets under contract with a contractor as rest upon those making private improvements; and hence the furnishing of such material or such work, creates such a privity between those furnishing same and the city as will entitle them to the benefits intended to secure them against loss, under a bond expressly so providing, exacted by the city from the contractor doing public improvement work; the city has authority under its charter powers to require such provision: *St. Louis vs. Von Phul*, 133 Mo. 561, 566 et seq.; *Kansas City vs. Surety Co.*, 196 Mo. l. c. 305; (see also *Rev. St. 1899*, sec. 6762; *Rev. Code*, sec. 1989). And the contract between the material men and the contractor is independent of the contract between the city and the contractor; the fact, therefore, that the contract between the city and the contractor is invalid has no effect upon the contract between the material man and the contractor: *Kansas City vs. Surety Co.*, 196 Mo. l. c. 302. So also the city may contract that enough of the contract price be withheld to meet the claims of laborers and material men: *St. Louis vs. Lumber Co.*, 114 Mo. 82. After the contract is executed, the sureties on the contractor's bond to the city are estopped from claiming that the contract was void: *Kansas City vs. Surety Co.*, 196 Mo. l. c. 302. But where there is no privity between the city and a third person for whose benefit a contract is made by it, such contract is invalid; hence a private citizen cannot recover for loss by fire, from a water company which had obligated itself to furnish water sufficient to extinguish all fires and be responsible for a failure so to do: *Howsman vs. Trenton*, 119 Mo. 305.

A city cannot contract to do for a compensation that which is a public duty imposed upon it by law; but it may contract to do things of a private nature not inconsistent with its municipal powers (such as raising a sunken boat), and be liable for a breach thereof: *The Maggie P.*, 25 Fed. 202.

City officials are disqualified from being directly or indirectly interested in any contract with the city (see Charter Art. IV, sec. 10, including assemblymen: Art.

III, sec. 6); it is made a misdemeanor if they are (R. S. 1899, sec. 2346, Charter Art. XVI, sec. 11); and in view of these and the other statutory, charter and constitutional provisions cited at beginning of this note, there is little doubt that such contracts are void: (See note to sec. 10 of Art. IV of Charter).

For additional authorities that city contracts not in accordance with law are void, see cases below on ratification, estoppel, etc.

Contracts lawfully made by a city are binding on it (*Steffen vs. St. Louis*, 135 Mo. 44), and the obligations of contracts made by franchise ordinances cannot be impaired by the city; and such impairment will be prevented by the courts, as a matter of law, and as contrary to the constitutions prohibiting such legislation: See cases cited in note to sec. 1 of Art. X of the Charter, as to street railway ordinance franchises; and see in general, *Vicksburg vs. Waterworks Co.*, 202 U. S. 453, and cases cited; *Walla Walla vs. W. W. W. Co.*, 172 U. S. 1.

But a mere repudiation of a contract by a city, in the absence of legislation, amounts to a mere breach of contract, and does not amount to the impairment of its obligation within the federal constitution: *Dawson vs. Columbia Trust Co.*, 197 U. S. 178.

A city may be held to have received money to the use of another; the obligation to do justice rests upon all persons, natural and artificial, and if a municipality obtains the money or property of others without authority, the law, independent of any statute, will compel restitution or compensation: *Wood vs. Kansas City*, 162 Mo. 303, 1. c. 312.

A clause in a contract between the city and a contractor, leaving disputes as to the amount of the work to be paid for and questions as to the execution of the contract work, to be determined by the city's commissioner is valid and his decision is final in the absence of fraud, partiality or misapprehension of the facts: *McCormick vs. St. Louis*, 166 Mo. 315 (see also dissenting opinion and cases cited); but such provision does not give the commissioner jurisdiction to determine the legal question whether the contractor has incurred a penalty provided for in the contract: *King, etc., Mnfg. Co. vs. St. Louis*, 43 Fed. (C. C.) 768, (appeal dismissed: 149 U. S. 769).

Ratification: A city may ratify the unauthorized acts and contracts of its officers when within the scope of the corporate powers. But the ratification must be by the same authority that could have done the act lawfully originally: *Dougherty vs. Excelsior Springs*, 110 Mo. App. 623, 627, 629; *Unionville vs. Martin*, 95 Mo. App. 28; *State ex rel. vs. Milling Co.*, 156 Mo. 620, 634; *Clay vs. Mexico*, 92 Mo. App. 611; *Ruggles vs. Collier*, 43 Mo. 353, 367; *Kolkmeier vs. Jefferson City*, 75 Mo. App. 678.

A sewer not legally constructed by ordinance may be accepted and used by a city, and such subsequent ratification estops the city, but not an abutting owner to dispute a tax-bill: *Akers vs. Kolkmeier*, 97 Mo. App. 520; see further, *St. Louis vs. Clemens*, 43 Mo. 395.

Nor can a void contract be ratified: *Savage vs. Springfield*, 85 Mo. App. 323, 329.

The doctrine of estoppel applies to a municipal corporation when it enters into a contract which it has authority to make, with the same force as that doctrine applies to individuals: *Un. Dep. Co. vs. St. Louis*, 76 Mo. 393, 396; *Unionville vs. Martin*, 95 Mo. App. 28, 38; see also *National Subway Co. vs. St. Louis*, 169 Mo. 319 (refusing to allow the city to charge as per contract for the use of its streets during the period it itself prevented such use); *The Maggie P.*, 25 Fed. (C. C. Dist. Mo.) 202, 206. See also *King, etc., Co. vs. St. Louis*, 43 Fed. (C. C. Mo.) 768.

But estoppel cannot be applied against the city to validate a contract the city had no authority to make: *Unionville vs. Martin*, 95 Mo. App. 28, 38; *Wheeler vs. Poplar Bluff*, 149 Mo. 36.

Although it may be invoked against one dealing with the city who has received the benefit of an unauthorized contract which is not prohibited by charter or law: *Unionville vs. Martin*, 95 Mo. App. 28, 38; *Kansas City vs. Surety Co.*, 196 Mo. 281, 301; *St. Louis vs. Davidson*, 102 Mo. 149; *Henderson vs. Koenig*, 192 Mo. 690; *California vs. Telephone Co.*, 112 Mo. App. 722. But see *Wood vs. Kansas City*, 162 Mo. 312, holding that one cannot be estopped by a void ordinance from claiming

fees received as notary public, though obtaining his employment by such ordinance which required him to pay said fees to the city, his salary to be in full thereof, and such fees being earned in connection with city business and in city hours.

A city cannot be estopped from claiming property to be a highway because it had been included in a cause seeking to condemn private land for public use: *Moses vs. St. L. Sec. Dock Co.*, 84 Mo. 1. c. 246-247.

It was held that where the City of Joplin entered into a contract with a water company to supply it with water, it cannot accept the benefits of the water supplied and defeat a recovery because the amount supplied was not as much as agreed; if it intends to escape payment altogether it should refuse to accept the water and terminate the contract, otherwise it will be liable for the amount received, and if it fails to enforce the provisions of the contract intended to meet the default claimed, it waives the right that the company can recover only on the quantum meruit: *Waterworks Co. vs. Joplin*, 177 Mo. 496.

Assignability of contract: The rule that a contract is assignable applies against a municipal corporation, unless there be some statute or ordinance forbidding: *Gordon vs. Jefferson City*, 111 Mo. App. 23, 27; *St. Louis vs. Sullivan*, 42 Mo. 69, 73; *Kansas City Loan Co. vs. K. C.*, 200 Mo. 159. Whether a city has a right by ordinance to forbid the assignment of earned or unearned wages or claims was raised in the last cited case (200 Mo. 159), but the case was decided on the point that the particular ordinance there in question did not apply to the facts, and the assignee of earned claims was permitted to recover; the court construed an ordinance prohibiting issuance or payment of a warrant to any other than the party working for the city, as not preventing recovery by the assignee of the claim, in the same manner as the assignor could have recovered had no warrant been issued.

Deeds by municipal officers, acting in pursuance of ordinances or resolutions of the law-making power need not recite such authority, nor show that the contingency has happened which authorized the sale; the rule applicable to trustees does not apply to a city: *Jamison vs. Fopiarea*, 43 Mo. 565.

Where the city has charter power to dispose of lands, its deed therefor is presumed to be executed in pursuance of that power, and no special authority by ordinance or resolution need be shown: *Chouquette vs. Barada*, 33 Mo. 249; a deed by a city, regular on its face, under the corporate seal, is prima facie evidence that all the prerequisites authorizing the sale have been complied with: *Wells vs. Pressy*, 105 Mo. 164, 179, and cases cited.

Sec. 8. Citizens of St. Louis exempt from road work.—The citizens of the City of St. Louis are hereby exempt from working on the roads or public highways of the city, any law to the contrary notwithstanding.

Sec. 9. Damage suits against the City—Persons and Corporations, when liable to be made co-defendants, and judgments to be first enforced against them.—Whenever the city shall be made liable to an action for damages, by reason of the unauthorized or wrongful acts, or of the negligence, carelessness or unskillfulness of any person or corporation, and such person or corporation shall also be liable to an action on the same account by the party so injured, the injured party, if he sue the city for damages suffered by him, shall also join such other person or persons or corporation so liable, if residing in the State, so that they can be served with process, as a defendant or defendants in his suit, and no judgment shall be rendered against the city unless judgment is rendered against such other person or corporation so liable to be sued as aforesaid; and if any action be brought against the city alone, and it is made to appear that any person or corporation ought to be joined as a defendant in the suit, according to the provisions of this section, the plaintiff shall be non-suited; but no person shall be liable under this act to be sued jointly with the city, who would not be liable to be sued separately, irrespective of its provisions. When a judgment shall be obtained against the city and the other party liable as aforesaid, execution shall issue against all the defendants in the ordinary form, but shall first be enforced and collected of the other defend-

ants, and shall not be collected of the city unless the other defendants are so insolvent that the same can not be made out of them, and in that case the city shall pay only so much of the judgment as can not be made out of the other defendants.

Section void: This section of the charter was held to be void as inconsistent with the state law in *Badgeley vs. St. Louis*, 149 Mo. 122. In lieu of it a statute was enacted authorizing the city to compel a plaintiff to bring in as co-defendant with the city one who is liable with the city on account of the same cause of action: Laws 1901, p. 78 (set out herein in "Laws Specially Applicable to St. Louis," as sec. 227), cited in *Baker vs. St. Louis*, 189 Mo. 375.

Liability of city in damage suits for defective streets and sewers, see note to clause 2 of section 26 of Art. III of the Charter. As to suits jointly against city and other parties, see (with other cases in that note cited) also *Perrigo vs. St. Louis*, 185 Mo. 274; *Gerst vs. St. Louis*, 185 Mo. 191; *Hesselbach vs. St. Louis*, 179 Mo. 505; *Reedy vs. St. Louis*, 161 Mo. 523; *Loth vs. Columbia Theatre*, 94 So. West. 847 (Sup. Ct., May 22, 1906); *Franke vs. St. Louis*, 110 Mo. 516; *Carvin vs. St. Louis*, 151 Mo. 334; *Grogan vs. Co. 87 Mo. 321*; *Donoho vs. Vulcan Iron Works*, 75 Mo. 401; *Schweickardt vs. St. Louis*, 2 Mo. App. 571; *Waltemeyer vs. K. C.*, 71 Mo. App. 354; *Rice vs. St. Louis*, 165 Mo. 636.

Sec. 10. Regulation of public processions.—The Municipal Assembly shall provide by ordinance for the regulation of public processions so as to prevent interference with public traffic, and to promote the good order of the city.

Ordinances as to processions and parades: Rev. Code, sec. 1540; processions of carriages prohibited in parks. *Id.* sec. 2018.

Sec. 11. Penalty for voting in favor of or allowing unauthorized claims—penalty for the misapplication of public funds.—Any member or officer of either house of the Assembly, and any officer of the city, and any member or officer of any board organized under or in connection with the city government pursuant to any law of this State, who shall in his official capacity, or under color of his office, knowingly or willfully, or corruptly vote for, assent to, or report in favor of, or allow or certify for allowance, any claim or demand against the city or any department thereof, or against any such board as above mentioned, which claim or demand shall be on account or under color of any contract or agreement not authorized by or in pursuance of the provisions of this Charter, or any claim or demand against the city or any department thereof, or any such board as aforesaid, which claim or demand, or any part thereof, shall be for work not in fact performed for and by authority of said city or such board, or for supplies for materials not actually furnished thereto, pursuant to law or ordinance, and every such member or officer as aforesaid, who shall knowingly vote for, assent to, assist or otherwise permit or aid in the disbursement or disposition of any money or property belonging to the city or any department thereof, or held by or in charge of any such board as aforesaid, to any other than the specific use or purpose for which such money or property shall be, or shall have been received or appropriated, or collected or authorized by law to be collected, shall, upon conviction thereof, be punished by imprisonment in the city jail for not more than one year, or by fine of not less than two thousand, nor more than ten thousand dollars, or by both such fine and imprisonment, or by imprisonment in the city jail for not less than six months, and by fine of not less than five hundred, nor more than five thousand dollars.

See references in note to Art. IV, sec. 10 and Art. XVI, sec. 7, as to prohibitions and penalties for unauthorized contracts, etc. For liability of officers see note to sec. 43 of Art. IV.

Sec. 12. Penalty for violation of provisions of Charter.—Any person who shall violate any of the provisions of this Charter, for the violation of which no punishment has been provided therein, shall be guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, or by punishment (imprisonment) in the county jail not exceeding one year.

Sec. 13. Oath of office.—Each member of the Assembly and officer of the city, or of any board thereunder, shall, before entering upon the duties of his office, take and subscribe an oath or affirmation* that he will support the Constitution of the United States and of this State, and that he is not subject to any of the disqualifications enumerated in this Charter, and that he will demean himself faithfully in office.

Oath: See oath elsewhere required in Charter: Art. IV, sec. 43. See note thereto referring to ordinance and authority.

Sec. 14. Records of Board of Police Commissioners to be open to inspection.—The journal and books of the Board of Police Commissioners, required by law to be kept by them, and all documents relating to their office, shall always be open to the inspection of the Comptroller and Municipal Assembly of the City of St. Louis, and of any committee appointed by it for that purpose.

Sec. 15. City Counselor and Attorney to furnish legal advice to Police Commissioners.—The City Counselor and Attorney shall furnish the Board of Police Commissioners with the legal advice and services desired by them, and the said Board shall not employ any other at the city's expense.

Sec. 16. Expenses of Police Force to be paid out of city treasury.—All claims against the Board of Police Commissioners, including salaries, shall be paid out of the city treasury in the same manner as other claims against the city are paid; and said claims shall be certified to by the President and Secretary of said Board, and audited as provided in this Charter for claims against the city; and all acts or parts of acts inconsistent with or in conflict with this section are hereby repealed.

Salaries and expenses of police: As to the payment of the police under the present Metropolitan Police Law, see State ex rel. vs. Mason, 153 Mo. 23; also State ex rel. vs. St. Louis, 174 Mo. 125, l. c. 131, and State ex rel. vs. Smith, 89 Mo. 408. See full discussion and notes to that act, State Laws "Specially Applicable to St. Louis," ante, Chap. 24, secs. 427-459; see also Chart. III, sec. 26, clause 2, and end of note thereto.

Sec. 17. Assembly to fix salaries of officers—increase of salary forbidden during term.—The Municipal Assembly shall fix the salaries of all elective or appointive officers of the city and their assistants or deputies, and also of all clerks that may be employed by the city in any of its offices or departments, and may increase or diminish the same by ordinance, except in cases where otherwise provided in this Charter: *Provided*, that no such increase shall be made during the term for which any such officer or assistant or clerk may be elected or appointed.

Salaries: Limitation on salaries: See next section. By Charter Art. III, sec. 26, clause 8, it is provided that the salary of no officer shall be changed during his term, and that no officer receiving a salary shall receive any fees or other compensation: See note to that provision.

The constitution (Art. XIV, sec. 8) provides that "the compensation or fees of no state, county or municipal officer shall be increased during his term of office."

In *State ex rel. vs. Johnson*, 123 Mo. 43, 48, it is held that this does not apply to any official whose term of office is not definitely fixed, and who holds at the pleasure of the appointing power. But both constitutional and charter provision are held to apply to that part of an incumbent's term during which he holds over after the regular term, and before his successor is qualified: *State ex rel. vs. Smith*, 87 Mo. 158.

The right of a public officer to the salary of his office is a right created by law, is an incident to the office, not the creature of contract, nor dependent upon the fact or rendition or value of services actually rendered: *State ex rel. vs. Walbridge*, 153 Mo. 194, 203, citing numerous cases; *Bates vs. St. Louis*, 153 Mo. 18, and cases cited; *Cavane vs. Milan*, 99 Mo. App. 672. See also *Sanderson vs. Pike Co.*, 195 Mo. 1. c. 605.

Not being fixed by contract, express or implied, a public officer is entitled to compensation, if at all, only where such right is created by law as an incident to the office; no implied liability to pay will arise: *Givens vs. Daviess Co.*, 107 Mo. 603, 608-609, and cases cited; so see *Garnier vs. St. Louis*, 37 Mo. 554 (holding that there is no implied liability of the city); *Sanderson vs. Pike Co.*, 195 Mo. 1. c. 605.

If a city official is otherwise entitled to recover, the fact that there is not enough money appropriated to pay him will not defeat his claim: *Magner vs. St. Louis*, 179 Mo. 495, 501.

Absence from the city without leave suspends salary: *Rev. Code*, sec. 1688.

Where an attempted removal of an officer is unlawful, he is still the incumbent, and he will not be prevented from recovering his salary, in a mandamus proceeding against the proper officials: *State ex rel. Gieselman vs. Hawes*, 177 Mo. 387; *State ex rel. vs. Johnson*, 123 Mo. 43; *State ex rel. vs. Walbridge*, 153 Mo. 194. See also *U. S. vs. Wickersham*, 201 U. S. 390, 399.

Salary during suspension by Mayor, see *Rev. Code*, sec. 1705. An officer legally suspended is not entitled to the salary during such period whether finally removed or not: *Blackwell vs. Thayer*, 101 Mo. App. 661; *Westberg vs. Kansas City*, 64 Mo. 493; *Howard vs. St. Louis*, 88 Mo. 656; *Lewis vs. St. Louis*, 12 Mo. App. 570 (memo. opin.). *Contra*: *State ex rel. vs. Carr*, 3 Mo. App. 6 (allowing recovery for the period of suspension, under ordinance now *R. C. sec. 1705*).

As to salaries of police see notes to Metropolitan Police Act (set out *State Laws Specially Applicable to St. Louis*, Chap. 24, secs. 427-459).

Salary attaches to the legal title and an officer who is *de facto* such but not *de jure* cannot recover the salary attached to the office: *Sheridan vs. St. Louis*, 183 Mo. 25 (House of Delegates member).

Nor can an officer *de jure* recover from the city for salary paid in good faith to the officer *de facto* while in office: *State ex rel. vs. Babcock*, 106 Mo. App. 72. He who holds the commission is entitled to the salary until his authority is properly cancelled: *State ex rel. vs. Clarke*, 52 Mo. 508.

An officer has no vested right to his office, and abolishing the office cuts off the right to the salary attached to it: *Magner vs. St. Louis*, 179 Mo. 495; *Primm vs. Carondelet* 22 Mo. 22.

A *de facto* officer is entitled to be paid the necessary expense of earning the fees in derogation of the rightful officer to whom they belong and *a fortiori* the city should be allowed expenses and clerk hire paid for it relying in good faith upon the validity of a statute and ordinance authorizing that course though such laws be subsequently declared void: *Henderson vs. Koenig*, 192 Mo. 690. By accepting the benefits of compensation under an unconstitutional statute the officer waives its invalidity as to himself so far as recovering compensation: *Ib.*; *State ex rel. vs. Messerly*, 198 Mo. 351, 357.

An ordinance is valid, providing against assignability of salary or wages of city employes: *State ex rel. vs. Kent*, 98 Mo. App. 281.

Under general principles of law a partial assignment of salary not yet due is void: *Beal vs. McVicker*, 8 Mo. App. 202.

A contract by a public officer for the assignment or sale and collection of his future salary is void as against public policy: *State vs. Williamson*, 118 Mo. 146.

An ordinance providing that an employe of a city shall pay fees earned by him as a notary public in connection with the city's business shall be paid into the city treasury and that his salary shall be in full of such services, is void, and the notary's fees may be recovered by him from the city which had received them: *Wood vs. Kansas City*, 162 Mo. 303.

But where the city has paid a city official his salary as understood to be due by it, and the same has been received by him as such, over a long period of time, he is thereafter estopped from claiming a greater sum: *Galbreath vs. Moberly*, 80 Mo. 484.

Sec. 18. Limitation of salaries, fees, etc., to be paid into treasury—salaries to be paid monthly.—The annual salary of no officer of the city shall exceed the sum of five thousand dollars, nor of any assistant or deputy exceed the sum of twenty-five hundred dollars, nor of any clerk in the sum of eighteen hundred dollars; and all fees, perquisites and emoluments of such officers shall be paid over monthly to the Treasurer, and all such salaries shall be paid monthly, as may be provided by ordinance.

See note to preceding section.

Sec. 19. Amendments to Charter to be submitted to people.—When amendments to this Charter are proposed, they shall be submitted separately to a vote of the people.

The method of amendment is pointed out by the Constitution: Art. IX, sec. 21.

This section of the Constitution was amended in 1902. An amendment now requires a three-fifths vote of the qualified voters voting for or against each of the amendments submitted. Formerly it required three-fifths of all votes cast at the same election: *State ex rel. vs. Mayor*, 73 Mo. 435; *State vs. Winkelmeier*, 35 Mo. 103.

It was at first held that the Charter of St. Louis could be amended only in the method pointed out in the Charter and not indirectly by the General Assembly: *Murnane vs. St. Louis*, 123 Mo. 479; *St. Louis vs. Dorr*, 145 Mo. 466, 480; and such of course must be the case where the Charter is to be technically and directly amended. But it is now held that the legislature has an unquestioned right to enact such laws for the city as it thinks necessary, and in so far as in conflict with the Charter the latter is thereby superseded: See cases cited in the first note at beginning of this Charter under "General Considerations Respecting the Charter."

A city adopting under the constitution a freeholders' Charter (in this case *Kansas City*) has the power not only to amend it from time to time but to frame and adopt a new Charter: *Morrow vs. Kansas City*, 186 Mo. 675.

Sec. 20. Existing city officers continued in office until April, 1877.—All the present city officers, except where otherwise provided in this Charter and in the Scheme, are hereby continued in office until the election provided herein to be held in April, 1877, and until their successors are qualified.

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PART III.

THE REVISED CODE OF ST. LOUIS.

(BEING ORDINANCE 22902, APPROVED MARCH 19, 1907.)

Containing the General Ordinance Provisions.

1.—ORDINANCE IN REVISION OF THE GENERAL ORDINANCES.

2.—APPENDIX TO GENERAL ORDINANCES,

CONTAINING ORDINANCES APPROVED TOO LATE TO APPEAR IN
ORDINANCE IN REVISION, INCLUDING THOSE ENACTED
DOWN TO SESSION BEGINNING IN APRIL, 1907.

AN ORDINANCE

—IN—

Revision of the General Ordinances

—OF THE—

CITY OF ST. LOUIS.

Be it ordained by the Municipal Assembly of the City of St. Louis as follows:

Section 1. That in revision of the general ordinances of the city the same shall be classified into chapters, articles and sections as follows:

Chapter 1. Buildings, department of.

Article I. Of public buildings.

Article II. Of commissioner of public buildings.

Article III. Of gunpowder.

Article IV. Of the inspection, construction, removal, safeguarding of buildings, protection of lives and safety of persons in public buildings and of the protection of property against fire.

Chapter 2. Of city surveyors.

Chapter 3. Of coroner and morgue.

Article I. Of coroner.

Article II. Of morgue.

Chapter 4. Of day laborers.

Chapter 5. Of drinking fountains.

Chapter 5a. Of factory inspection.

Chapter 6. Fire department.

Chapter 7. Fire and police telegraph department.

Chapter 8. Of firewood and charcoal.

Chapter 9. Of gas, inspection of.

Chapter 10. Harbor and wharf department.

Article I. Of harbor and wharf regulations, and herein of offenses.

Article II. Of wharfage.

Article III. Of wharfboats.

Article IV. Of wood.

Article V. Of scavenger dumps.

Article VI. Of ferries.

Chapter 11. Health department.

Article I. Of board of health.

Article II. Of health commissioner and assistants.

Article III. Of city bacteriologist.

Article IV. Of city chemist.

Article V. Of inspection of milk and cream and of licensing and regulating the sale thereof.

Article VI. Of regulations of dairies and cow stables.

Article VII. Of inspection of meat, fish, vegetables and fruit.

Article VIII. Of poisons.

Article IX. Of adulterated articles.

Article X. Of regulations concerning the cutting of ice.

- Article XI. Of regulations of vaults, privies and water closets.
Article XII. Of nuisances.
Article XIII. Of carcasses of dead animals, and garbage or offal.
Article XIV. Of vital statistics.
Article XV. Of regulations concerning the practice of medicine and surgery and midwifery.
Article XVI. Of city hospital, hospital for females, insane asylum and dispensaries.
Article XVII. Of poor house.
Article XVIII. Of regulations concerning contagious, infectious and pestilential diseases.
Article XIX. Of quarantine.
Article XX. Of mortuary records.
Article XXI. Of regulations concerning the transportation and disinterment of dead bodies.
Article XXII. Of cemeteries.
Article XXIII. Of crematories.
Article XXIV. Of bringing insane persons and paupers into city.
Article XXV. Of salaries of officers and employes.

Chapter 12. Of highways.

- Article I. Of street openings.
Article II. Of construction and repairs, and preventing obstructions.
Article III. Of sprinkling.
Article IV. Of numbering of houses.
Article V. Of stationary awnings.
Article VI. Of electric wires, tubes and cables.
Article VII. Of supervisor of city lighting and regulations pertaining to electrical apparatus.
Article VIII. Of city lighting and municipal lighting plants.
Article IX. Of telegraph and telephone poles.
Article X. Of garbage disposal.
Article XI. Of offenses connected with highways.
Article XII. Of city forester.

Chapter 13. Judicial department.

- Article I. Of police courts of first and second district.
Article II. Of police court south of Arsenal street.
Article III. Of justices of the peace.
Article IV. Of marshal.
Article V. Of jury commissioner.
Article VI. Of compensation of jurors.
Article VII. Of probate court.
Article VIII. Of juvenile court.

Chapter 14. Law department.

- Article I. Of city attorney.
Article II. Of city counselor.

Chapter 15. Legislative department.

- Article I. Of municipal assembly.
Article II. Of ordinances.

Chapter 16. Of markets.

- Article I. Of names and boundaries.
Article II. Of location of stalls, stands and wagons.

- Article III. Of leasing and renting of stalls and stands.
Article IV. Of market masters, appointment, powers and duties.
Article V. Of rules and regulations.
Article VI. Of meat shops.
Article VII. Of regulations concerning sale of game.
Article VIII. Of regulations concerning the sale of perishable articles.

Chapter 17. Of mayor.**Chapter 18. Of misdemeanors.**

- Article I. Of offenses against public morals and decency.
Article II. Of offenses affecting public order and peace.
Article III. Of offenses affecting public safety.
Article IV. Of miscellaneous offenses.
Article V. Smoke and smoke abatement.
Article VI. Of vagrants.
Article VII. Of dogs.
Article VIII. Of penalties, fines and forfeitures.

Chapter 19. Of Mullanphy emigrant relief fund.**Chapter 20. Of officers.**

- Article I. Of their appointment, qualifications and duties.
Article II. Of their suspension and removal.
Article III. Of public property in their charge.
Article IV. Of private watchmen.

Chapter 21. Penal and Charitable Institutions, department of.

- Article I. Of the commissioners.
Article II. Of foundlings.
Article III. Of the jailer.
Article IV. Of the work-house.
Article V. Of St. Louis industrial school.

Chapter 22. Plumbing and draining department.**Chapter 22a. Public baths and play grounds.****Chapter 23. Of public carriers and licensing of vehicles.**

- Article I. Of public porters.
Article II. Of rates of license and regulations for vehicles.
Article III. Of regulations and penalties.
Article IV. Of stands for vehicles.
Article V. Of steam cars and steam railroads.
Article VI. Of street cars and street railways.

Chapter 24. Public Improvements, department of.

- Article I. Of board of public improvements.
Article II. Of president of board of public improvements.
Article III. Of street commissioner.
Article IV. Of sewer commissioner.
Article V. Of water commissioner

Article VI. Of harbor and wharf commissioner.

Article VII. Of park commissioner.

Article VIII. Of regulations concerning the advertising of public improvements and the awarding of contracts.

Article IX. Of salaries and bonds of members of the board of public improvements and their employees.

Chapter 25. Of public parks.

Chapter 26. Of public printing.

Chapter 27. Of recorder of deeds.

Chapter 28. Of register.

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Chapter 29. Of assessment of property.

Article I. Of board of assessors.

Article II. Of board of equalization.

Article III. Of taxes.

Chapter 30. Of license collector and license revision.

Chapter 31. Of subjects and objects of license.

Article I. Of auctioneers.

Article II. Of bankers, brokers and insurance companies.

Article III. Of commission merchants and merchandise brokers.

Article IV. Of dramshops.

Article V. Of electric batteries.

Article VI. Of fortune tellers and astrologists.

Article VII. Of hotels and boarding houses.

Article VIII. Of house and real estate agents and brokers.

Article IX. Of intelligence offices.

Article X. Of manufacturers.

Article XI. Of merchants.

Article XII. Of ordinaries and restaurants.

Article XIII. Of pawnbrokers.

Article XIV. Of peddlers and hawkers.

Article XV. Of railway ticket brokers.

Article XVI. Of steamboat, hotel and railroad runners.

Article XVII. Of stockyards, sale stables and horse and cattle dealers.

Article XVIII. Of street railway companies.

Article XIX. Of vault cleaners.

Article XX. Of sundry vocations and miscellaneous provisions.

Chapter 32. Of collector.

Chapter 33. Of second-hand dealers.

Chapter 34. Of sewers.

Chapter 35. Of steam boilers and elevators.

Chapter 36. Supply department.

Chapter 37. Treasury department.

Article I. Of the department.

Article II. Of auditor.

Article III. Of comptroller.

Article IV. Of treasurer.

Chapter 38. Water rates, department of.

Article I. Of assessor and collector.

Article II. Of swimming baths.

Article III. Of water rates.

Chapter 39. Of water works.

Article I. Attachment with water pipes.

Article II. Water works bonds.

Chapter 40. Weights and measures, department of.

Article I. Of inspector.

Article II. Of weights and measures.

Article III. Of public scales.

Article IV. Of city weighers.

Article V. Of lumber measurers.

CHAPTER 1.

BUILDINGS, DEPARTMENT OF

ARTICLE I.—Of public buildings.

II.—Of commissioner of public buildings.

III.—Of gunpowder.

IV.—Of the inspection of buildings, protection of lives of persons in public buildings and of the protection of property against fire.

ARTICLE I.

OF PUBLIC BUILDINGS.*

*Ordinance 21226, approved Sept. 28, 1903, creates the "New Public Buildings Commission," and defines its duties and powers.

Section 1. City hall established—what offices located therein.—The building erected, owned and controlled by the City of St. Louis on Twelfth, Thirteenth and Market streets and Clark avenue is hereby established as a city hall, and the offices of the mayor, municipal assembly, auditor, comptroller, treasurer, register, collector, commissioner of public buildings, inspector of weights and measures, license [collector] commissioner, president of the board of public improvements, water commissioner, street commissioner, sewer commissioner, park commissioner, harbor and wharf commissioner, commissioner of supplies, city counselor, associate city counselor, second associate city counselor and assistant city counselor, chief of the fire department, board of election commissioners, assessor and collector of water rates, president of the board of assessors and district assessors, inspector of boilers and board of engineers, supervisor of plumbing and supervisor of city lighting shall be located therein, and such other public officers as may be ordered by the proper authorities. (M. C. sec. 1.)

Ord. 19608. Plans and specifications for the building of the new City Hall at its present location (then known as Washington Square), the building to cost one million dollars, were first provided for by ord. 15028, approved April 4, 1899; provisions for the building thereof, specifications, etc., and for letting the contract, were made in ord. 15558, app. March 29, 1890; this ord. was amended by ord. 17218, app. June 29, 1893, which also created the City Hall Commission (composed of the Mayor, Comptroller, Pres. of B. P. I., Building Com'r, Pres. of the Council and Speaker of the House) giving it the control of the erection of the building and charging the President of the B. P. I. with supervising the work, etc.

Charter authority concerning municipal buildings, Art. III, sec. 26, clause 3.

Sec. 2. Mayor to assign offices.—The assignment of offices in said city hall shall be made under the direction of the mayor, and the management of the building shall be as hereinafter directed; *Provided*, that this section shall not apply to the rooms occupied by both branches of the municipal assembly. (M. C., sec. 2.)

Sec. 3. United States flag on public buildings.—Upon and over the court house, four courts, new city hall, old city hall, work-house, house of refuge, insane asylum, poor-house, hospital for females, city hospital, engine houses, police stations, and a public building in such public parks as the park commissioner may direct, shall be erected a flag staff, on which the flag of the United States of America shall fly at full mast height between municipal office hours (weather permitting), on all the days of the week, except the Sabbath, usually called Sunday. (M. C. sec. 3.)

Sec. 4. Art building in Forest Park.—The board of control of the St. Louis School and Museum of Fine Arts, a department of Washington University, are hereby authorized to erect within Forest Park in this city a building which, together with the site upon which it is located, shall be devoted to the use of this institution forever for the exhibition of pictures and sculpture and such other means as are usual in such institutions for the education of the public in art. (Ord. 19969, sec. 1; M. C. p. 976.)

For state law authorizing a vote for taxation for purposes of an Art Museum, and rules and regulations for the government of such institution, see Session Laws 1907, p. 94 *et seq.*, set forth in this work under "Laws Specially Applicable to St. Louis," Chap. 2a, being sections 11a to 11j inclusive (*ante* p. 81).

Sec. 5. Location of building how determined.—The location of said building shall be determined by the board of control, hereinafter provided. (Ord. 19969, sec. 2; M. C. p. 977.)

Sec. 6. Board of Control, how constituted—public exhibitions.—Said building shall be erected subject to the following provisions:

The building when completed shall be the property of the city for the uses hereinafter provided, and no other. The building and its affairs shall be under the direction and jurisdiction of the board of control of the St. Louis School and Museum of Fine Arts augmented by the mayor, comptroller and park commissioner of the City of St. Louis, who shall be ex-officio members of such board of control of said building. There shall be an exhibition of pictures and sculpture in said building which shall be free of charge to the public every Sunday afternoon from one o'clock to sundown, except at such times as repairs of the building and the rearrangement of collections are in progress; provided notice of such fact shall be given by public advertisement on two different days; and such exhibitions shall be open free to the public as much oftener as, in the opinion of the board of control, the financial condition of the institution will permit. (Ord. 19969, sec. 3; M. C. p. 977.)

ARTICLE II.

OF COMMISSIONER OF PUBLIC BUILDINGS.*

*Ordinance No. 10371, approved Sept. 25, 1877, created office.

Sec. 7. Office of Commissioner of Public Buildings continued.—The office of commissioner of public buildings, heretofore created and now existing, shall be continued. (M. C. sec. 4.)

Sec. 8. Appointment and term.—The commissioner of public buildings shall be appointed by the mayor and confirmed by the majority of the members of the council. He shall hold his office for four years, and until his successor shall have been duly appointed and qualified. (M. C. sec. 5.)

Sec. 9. Qualifications.—The commissioner of public buildings shall be an architect who shall have had at least five years' practical experience in building. (M. C. sec. 6.)

Sec. 10. Bond.—The commissioner of public buildings shall give bond in the sum of ten thousand dollars for the faithful performance of his duties, with not less than two good sureties, holders of unencumbered real estate in the city, which bond shall be approved by the mayor and council. (M. C. sec. 7.)

Sec. 11. Salary.—The commissioner of public buildings shall receive a salary of twenty-five hundred dollars per annum, payable in monthly instalments, in full for all services. (M. C. sec. 8.)

No extra compensation can be recovered for work done in line of duty. Chamberlain vs. Kansas City, 125 Mo. 430. See Charter, XVI, sec. 18, note.

Sec. 12. General duties.—The commissioner of public buildings shall execute all orders that may lawfully be made for the performance of work within his department. It shall also be his duty to devote the whole of his time to the work of his office, to exercise supervisory control over the repair, alterations and improvements of all of the public buildings

of the city (subject to the order of the president of the board of public improvements), including all institutions and hospitals, the city hall, court house, jail, four courts, fire engine houses and morgue. He shall see that said buildings are kept in good condition. He shall prepare all plans and specifications for new buildings and also such as relate to the repairs, alterations and improvements of all public buildings, when directed by the president of the board of public improvements. (M. C. sec. 9.)

See Charter, IV, sec. 41.

Sec. 13. Care of buildings—appoint janitors and assistants—janitors.—It shall be the duty of the commissioner of public buildings to make all necessary regulations and arrangements for the care and cleaning of the city hall, the court house, jail, and four courts and other buildings under his charge. For this purpose he is authorized to appoint a janitor for each of the three buildings herein named, and such other assistants, not to exceed nine for the city hall, five for the court house and six for the four courts, as may be necessary to keep such buildings in an orderly or cleanly condition, and he shall also appoint one night watchman for each building, and he shall be held to strict responsibility for the acts of his employees. (M. C. sec. 10.)

The Commissioner and not the criminal court has power to appoint a janitor for said court: State ex rel. vs. Smith, 82 Mo. 51.

Sec. 14. Heating apparatus—engineers.—The commissioner of public buildings shall have in his charge all heating apparatus in connection with public buildings and institutions, and shall cause the same to be kept in good order. He shall appoint all engineers for the management of stationary boilers or machinery in public buildings and institutions, except such public buildings and institutions as are by charter or ordinance placed under the control of the board of health, and health commissioner, and water commissioner, and chief of fire department, and all firemen and employes in connection with same; but no person shall be appointed engineer who is not a duly licensed engineer, fully competent for the discharge of such duties, and a man of steady habits and good character (M. C. sec. 11.)

Sec. 15. Approval of appointments—removal.—All appointments of janitors, engineers or other persons by the commissioner of public buildings shall be subject to the approval of the mayor and president of the board of public improvements, and may be removed by the mayor for cause, or by the commissioner and president of the board of public improvements whenever the interests of the city require it, but nothing herein contained shall be so construed as to mean that the janitors shall not personally perform their full share of the duty of keeping said buildings clean and in good condition. (M. C. sec. 12.)

The words "or other persons" has reference to persons of the same class, and does not include inspectors: State ex rel. vs. Longfellow, 95 Mo. App. 660, 663; State ex rel. vs. Longfellow, 93 Mo. App. 364, 372.

This section is a part of the original ordinance passed in 1877, creating the office of Commissioner of Public Buildings, and defining his duties, and the appointments he was then authorized to make were of janitors, watchmen, engineers and firemen, and the authority to remove had reference only to those employes; the power to appoint inspectors was not given until 1892 (ord. 17188) and the power to remove does not apply to inspectors: *Magner vs. St. Louis*, 179 Mo. 495, 502, citing the cases *supra*.

As to appointment of inspectors see below, sec. 33.

Sec. 16. **Janitors and night watchmen—salaries and bond.**—The said janitors shall each give bond to the City of St. Louis in the sum of one thousand dollars, to be approved by the mayor and council, for the faithful performance of their duties, and the janitors of the court house and four courts buildings shall receive as full compensation for their services the sum of seven hundred and eighty dollars each per annum, payable monthly. The assistant janitors of the above mentioned buildings shall receive as full compensation for their services the sum of fifty-five dollars each per month. The janitor of the city hall shall receive as full compensation for his services the sum of eight hundred and forty dollars per annum, payable monthly. The assistant janitors of the city hall shall receive as full compensation for their services the sum of sixty dollars each per month. Night watchmen of the three buildings mentioned above shall receive as full compensation for their services the sum of six hundred dollars each per annum, payable monthly. (M. C. sec. 13.)

Sec. 17. **Engineers and firemen—salaries.**—The engineer at the four courts shall receive as compensation for his services the sum of ninety dollars per month; and the engincer at the court house shall receive as compensation for his services the sum of seventy dollars per month. If assistant engineers are required for either or both of the above named buildings, the assistant engineer at the four courts shall receive a salary of seventy dollars per month, and the assistant engineer at the court house shall receive a salary of sixty dollars a month. Firemen, fifty dollars per month. (M. C. sec. 14.)

Sec. 18. **Public buildings—what employes in, appointed by commissioner.**—The necessary employes in public buildings not in charge of a resident superintendent shall be under the superintendence of the commissioner of public buildings, and shall be appointed by him with the approval of the mayor and president of the board of public improvements; their number and salaries shall be established by ordinance. (M. C. sec. 15.)

ARTICLE III.

OF GUNPOWDER.*

*For Charter authority to regulate storage of gunpowder and other explosives see Charter, Art. III, sec. 26, clause 12.

Sec. 19. **Quantity of gunpowder, etc., which may be kept and where.**—Not exceeding five pounds of gunpowder shall be allowed to be kept by any person or persons in any store, dwelling, building or other place within the city, except that retailers or venders of gunpowder in small quantities may, for that purpose, keep any quantity not exceeding thirty pounds; *Provided*, that the same shall be kept in tin or metal canisters or stone jars, with good and closely-fitting and well-secured covers thereon; *Provided, however*, that those parties now having magazines within the limits of the city are hereby allowed to store in such magazines such quantities of gunpowder as may be necessary for their business; *Provided, further*, that no person or corporation shall hereafter be permitted to store or keep within the limits of this city any giant powder, dynamite, nitro-glycerine, gun-cotton or other similar explosives, except gunpowder, in quantities greater than thirty pounds. The commissioner of public buildings may, with the approval of the mayor, grant to owners of magazines located within the city limits in which are stored more than thirty pounds of explosives, as enumerated above, except gunpowder, not to exceed ninety

days from the approval of this ordinance in which to remove said prohibited explosives to a place or places outside the limits of the city. (M. C. sec. 16.)

Sec. 20. Sign to be displayed—notice to be given.—Every retailer of gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder shall place on the building containing the same, over or at the side of the front door thereof, a sign with the words "powder for sale" printed thereon, in letters at least three inches in height, and shall notify the commissioner of public buildings in which portion of said store the said powder or powders are placed, which notice shall be kept of record in the said commissioner's office. (M. C. sec. 17.)

Sec. 21. Gunpowder, etc.—how carried on streets.—No person shall carry gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder on any vehicle in any part of the city unless the same shall be secured in kegs, boxes or canisters, sufficiently close to prevent the grains thereof from falling out, and be laid upon and covered with sheets of canvas or other cloth. (M. C. sec. 18.)

Sec. 22. Gunpowder, etc.—time within which may be kept.—Any person having charge of any vehicle conveying more than one keg of twenty-five pounds of gunpowder, giant powder, nitro-glycerine, dynamite or blasting powder, and who shall have such vehicle with the gunpowder, giant powder, nitro-glycerine, dynamite or blasting powder thereon, within the limits of the city for a longer time than two hours, or who shall permit more than one keg or twenty-five pounds of gunpowder, giant powder, nitro-glycerine, dynamite or blasting powder in his charge to be upon any street, alley or sidewalk longer than thirty minutes, shall in either case be deemed guilty of a misdemeanor; *Provided, however,* that such quantities of gunpowder, giant powder, nitro-glycerine, dynamite or blasting powder as may be required for the supply of merchants and of wholesale dealers making up bills for the country trade, may be brought from the powder magazine or depots during the day, and such powder shall be allowed to be kept in the city during the business hours of the day. (M. C. sec. 19.)

Sec. 23. Gunpowder, etc.—penalty for bringing in concealed.—Any person who shall knowingly bring within the corporate limits of the city any quantity of gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder concealed in a box, barrel, parcel, package or other thing marked and purporting to be other than gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder, shall be deemed guilty of a misdemeanor, and the gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder so concealed shall be forfeited and seized and sold by the marshal as hereinafter provided. (M. C. sec. 20.)

Sec. 24. Search warrant may be issued—when.—If an affidavit be presented to the mayor showing probable cause to believe that any person keeps, has, possesses or conceals any gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder, in violation of this article, he shall issue to the marshal a search warrant, commanding him to search any place in quest of gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder, which warrant shall be forthwith rigidly executed. (M. C. sec. 21.)

Sec. 25. Penalty for violating article—seizure.—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and on conviction thereof be fined not less than twenty-five and not exceeding one hundred dollars. And all gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder kept, stored,

removed, transported and exposed within the city, or unladen from or laden upon any steamboat, vessel or railway car contrary to and in violation of any of the provisions of this article, shall be liable to be seized by the marshal, or by any city officers cognizant of the fact, and it is hereby made the duty of the marshal and all other city officers, forthwith to seize such gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder, and convey the same to a safe place beyond the city limits; and any and all quantities of gunpowder, giant powder, dynamite, nitro-glycerine or blasting powder seized as aforesaid shall be sold by the marshal at public vendue to the highest bidder for cash, first giving three days' notice of the time, place and terms of such sale, in the newspapers employed by the city. (M. C. sec. 22.)

Sec. 26. Quarries—construction of article with reference.—The provisions of this article shall not be construed to prohibit, or prevent, quarrymen from keeping upon their premises at the quarry blasting powder in quantities not exceeding one keg of fifty pounds, provided the same is well secured from danger of explosion; *and provided* it is so situated and located that an explosion could work no injury to the inhabitants in the vicinity, or persons passing in the vicinity convenient to said locality where the powder is stored. (M. C. sec. 23.)

ARTICLE IV.

OF THE INSPECTION, CONSTRUCTION, REMOVAL, SAFEGUARDING OF BUILDINGS,
PROTECTION OF LIVES AND SAFETY OF PERSONS IN PUBLIC BUILDINGS
AND OF THE PROTECTION OF PROPERTY AGAINST FIRE.

Sec. 27. Duties of Fire Chief to inspect buildings transferred to Building Commissioner.—The duties imposed on the chief of the fire department by section five of article eleven of the city charter shall be hereafter performed by the commissioner of public buildings. (M. C. sec. 24.)

Transfer authorized by Charter, III, sec. 32. See *Magner vs. St. Louis*, 179 Mo. l. c. 509.

Sec. 28. Deputy commissioner — appointment — qualifications.—The position of deputy commissioner of public buildings, heretofore created and now existing, shall be continued. Said deputy shall be appointed by the commissioner of public buildings and approved by the mayor, and shall possess the qualifications prescribed by section ten of article four of the charter. (M. C. sec. 25.)

Sec. 29. When deputy to act for Commissioner.—In case of the absence from the city, sickness or other inability of the commissioner of public buildings the deputy commissioner of public buildings shall perform all the duties of his principal. (M. C. sec. 26.)

Sec. 30. Salary and bond of deputy.—The deputy commissioner of public buildings shall receive a salary of one hundred and twenty-five dollars per month, payable monthly. He shall give bond to the City of St. Louis for the faithful performance of the duties of his office in the sum of five thousand dollars, with two good and sufficient sureties, to be approved by the mayor and council. (M. C. sec. 27.)

Sec. 31. Chief and assistant [and permit] clerks—salaries and bonds.—There shall be appointed by the commissioner of public Buildings, subject to the approval of the Mayor, a chief clerk and an assistant clerk [and a permit clerk*]. The chief clerk shall receive a salary of one hundred and twenty-five dollars per month, payable monthly. He shall give bond in the sum of twenty thousand [two thousand*] dollars, with good and sufficient security, to be approved by the Mayor and Council.

The assistant clerk shall receive a salary of one hundred dollars per month, payable monthly, and shall give bond in the sum of one thousand dollars, with good and sufficient security, to be approved by the Mayor and Council. [The permit clerk shall receive a salary of one hundred and twenty-five dollars per month, payable monthly, and shall give bond in the sum of \$2,000, with good and sufficient security, to be approved by the Mayor and Council*]. (Ord. 21463 and 22778, amending M. C. sec. 28.)

*The portions of section 31 included in brackets is not a part of the Rev. Code but is an addition by amendment made by ord. 22778, approved Feb. 12, 1907, after the Rev. Code had been submitted to the assembly and before the passage thereof. (See appendix for ord. 22778 in full.)

Sec. 32. Chief Inspector—salary and bond.—There shall be one chief inspector of buildings appointed by the commissioner of public buildings, to be approved by the Mayor, who shall be a practical builder, whose salary shall be one hundred twenty-five dollars per month, payable monthly. He shall give bond to the City of St. Louis for the faithful performance of his duties in the sum of five thousand dollars, with two good and sufficient securities, to be approved by the Mayor and Council. (M. C. sec. 29.)

Sec. 33. Six inspectors—salaries and bond.—There shall be six inspectors of buildings appointed by the commissioner of public buildings, to be approved by the Mayor, who shall be practical builders, and whose salaries shall be one hundred dollars per month each, payable monthly. Said inspectors shall give bond to the City of St. Louis for the faithful performance of their duties in the sum of five thousand dollars each, with two good and sufficient securities, to be approved by the Mayor and Council. The first appointment of inspectors of buildings shall be for the term ending on the first Tuesday in April, eighteen hundred and ninety-five. (M. C. sec. 30.)

These inspectors are "assistants" within the meaning of Chart., Art. IV, sec. 14, and may be removed by the Commissioner at his pleasure: *State ex rel. vs. Longfellow*, 95 Mo. App. 660, 666, following *State ex rel. vs. Longfellow*, 93 Mo. App. 364; a similar ruling is made in *Magner vs. St. Louis*, 179 Mo. 495. These cases hold that under the former ordinances they were officers but not under the present one.

Sec. 34. Additional inspectors, examiner of plans, record clerk, stenographer — salaries — qualifications — bonds — discharge—horses and buggies allowed.—In addition to the inspectors provided for in section thirty-three of this article, the Commissioner of Public Buildings may, when necessary for the proper performance of the work of the department, employ, with the approval of the Mayor, additional inspectors, not exceeding six in number, and whose salaries shall be one hundred dollars each per month, payable monthly. [The said Commissioner of Public Buildings shall also have authority to appoint, with the approval of the Mayor, one additional inspector, to be known as Inspector of Plastering, who shall receive a salary of one hundred dollars each month, payable

monthly, and who shall be a practical plasterer and a qualified voter of the City of St. Louis for at least two years prior to his appointment.*] The said Commissioner of Public Buildings shall also have authority to appoint, with the approval of the Mayor, one-examiner of plans, whose salary shall be one hundred and twenty-five dollars per month, payable monthly, and one record clerk, whose salary shall be one hundred dollars per month, payable monthly, and one stenographer, whose salary shall be seventy-five dollars per month, payable monthly.

Said examiner of plans and inspectors of the second class, shall be skilled mechanics, engineers or architects, having a thorough knowledge of building construction, and shall each give bond to the City of St. Louis for the faithful performance of his duties in the sum of two thousand dollars with two good and sufficient securities to be approved by the Mayor and Council. All of the employes herein authorized to be approved or employed shall be subject to dismissal by the Commissioner of Public Buildings at his pleasure. Seven horses and buggies shall be allowed to the office of the Commissioner of Public Buildings to be acquired and maintained at the cost of the city; the purchase price of each outfit, consisting of horse, buggy, and harness, shall not exceed the sum of three hundred and fifty dollars. (Ord. 20661 and 22749, amend. M. C. sec. 31.)

*The portion in brackets is not a part of sec. 34 of the "Revised Code," but is an amendment passed after the submission of the Code to the assembly and before its passage, in ordinance No. 22749, approved Feb. 5, 1907. See appendix for the complete ordinance.

Sec. 35. Architectural draughtsman—salary.—There shall be one architectural draughtsman appointed by the commissioner of public buildings, and approved by the Mayor, whose salary shall be one hundred dollars per month, payable monthly. (M. C. sec. 32.)

Sec. 36. Additional help—salaries.—The commissioner of public buildings, with the consent of the president of the board of public improvements and the approval of the Mayor, shall have authority to appoint such additional help, either draughtsmen or local superintendents, as may in his judgment be necessary for the proper fulfillment of the duties of his department. The salaries of such additional help shall be at the rate of four dollars per diem for draughtsman and five dollars per diem for local superintendents. (M. C. sec. 33.)

Sec. 37. Inspector on request fire prevention bureau—no compensation from city.—In addition to the force provided herein, an additional inspector shall be employed, with the advice and consent of the Mayor, upon written application of the St. Louis Fire Prevention Bureau, who shall devote his time to the examination and supervision of buildings in process of construction in the City of St. Louis, and who shall report to the Commissioner of Public Buildings all violations of this or any other city ordinance relative to the same. The said inspector shall serve without compensation from the city, and hold his position until removed by the Mayor at the request of said St. Louis Fire Prevention Bureau. (Ord. 20532, amend. M. C. sec. 34.)

Sec. 38. Commissioner shall inspect construction of all buildings.—It shall be the duty of the commissioner of public buildings to visit and inspect each and any house or houses, building or buildings, which may be in the course of erection, construction, alteration, enlargement,

repair or removal within the limits of the city, and to see that such house or houses, building or buildings, are being erected, constructed, altered, enlarged, repaired or removed according to the provisions of this article, and all acts and ordinances in force in said city, and in manner adapted for the security thereof against fires and the safety of the occupants. His visits and inspection shall be repeated from time to time during the erection, construction, alteration, enlargement, repair or removal of such house or houses, building or buildings, and until all the walls shall have been completed and the same enclosed, when his duties shall terminate, except as otherwise provided in this article. He shall, on application for that purpose, furnish the owner or owners, contractor or contractors, his certificate that said house or building is in all respects conformable to law, and properly constructed. (M. C. sec. 35.)

Sec. 39. Duties of Commissioner—records—enter premises—subordinates.—It shall be the duty of the Commissioner of Public Buildings to sign all certificates and notices required to be issued under this article from said departments; to keep in proper books for that purpose a register of all transactions of said department, to submit to the City Council a yearly statement in detail of such transactions; to enter upon the premises wherein any fire has occurred, if necessary, in order to investigate the origin of the fire, and to enter into all buildings, yards and inclosures, at all reasonable hours, in order to discover if they are in a dangerous state, and to cause such as may be unsafe to be put in a safe and secure condition; enforce the provisions of this article relating to the safe loading of floors, bill boards, signs and fences, and, further, to perform such other duties as are herein required of him. He shall also have a general supervision and direction over the subordinate officers of the department. (M. C. sec. 36.)

Sec. 40. Commissioner's power as to construction and repairs—to approve plans within three days.—The commissioner of public buildings shall have power to pass upon any question arising under the provisions of this article relative to the manner of construction or the materials to be used in the erection, construction, alteration, enlargement, repair or removal of any building in the City of St. Louis, subject to section fifty-nine of this article, and he shall require that plans and specifications of the proposed erection, construction, alteration, enlargement or repair to be submitted for inspection before issuing the permit; provided, that any application or plan presented for a permit shall be acted on by the commissioner of public buildings, within three days from the day they are presented. (M. C. sec. 37.)

Sec. 41. New building code—not retroactive.—It is hereby enacted that the construction, erection, repairing and altering, or removal, of buildings in the City of St. Louis shall hereafter be in conformity with this article. Provided, that nothing in this article shall be construed to prevent the completion of any building operations for which permits shall be in force at the time of the approval of this article, in accordance with the terms of the ordinances in force at the time of the issuance of such permit. (Ord. 22022, sec. 1.)

This ordinance, No. 22022, was approved April 7, 1905.

Sec. 42. Permit required.—No work, except minor repairs shall be done upon any structure, building or shed in the City of St. Louis without

a permit from the Commissioner of Public Buildings. Before proceeding with the erection, enlargement, alteration, repair or removal of any building in the city, a permit for such erection, enlargement, alteration, repair or removal shall first be obtained by the owner or his agent from the Commissioner of Public Buildings, and it shall be unlawful to proceed with the erection, enlargement, alteration, repair or removal of buildings or of any structural part thereof, or of any structure which is to be used for the support, shelter or enclosure of persons, animals or chattels within the city, unless such permit shall first have been obtained from the Commissioner of Public Buildings. (*Ib.*, sec. 2—corresponds to M. C., sec. 75.)

See Chart., XI, sec. 4. After a permit has been granted and the building constructed the Building Commissioner has no power to restrict the use to which the building is to be put. The construction is one thing, its use another: *St. Louis vs. Dorr*, 136 Mo. 370. A city may, exercising its police power, remove a wooden building erected in violation of an ordinance, without judicial proceedings; the agents so removing same must, to exonerate themselves from liability, show that the building is permitted to remain in violation of law and that in tearing it down they exercised reasonable care to preserve the materials: *Eichenlaub vs. St. Joseph*, 113 Mo. 395.

Sec. 43. No building to be altered without examination by the Commissioner.—No building already erected, or hereafter to be erected in the City of St. Louis, shall be enlarged, raised, altered, or built upon in such manner that were such building wholly built or constructed after the passage of this ordinance, it would be in violation of any of the provisions of this article. And before any building, in any part of said city, shall be enlarged, raised, altered, built upon or moved, the same shall first be examined by the Commissioner of Public Buildings, or his assistants, to ascertain if the building or buildings are in a safe and good condition to be enlarged, raised, altered or built upon, and no such buildings as aforesaid shall be enlarged, raised, altered or built upon until after such examination has been made, as provided in this article, and the fee for such examination has been paid. (*Ib.*, sec. 3; corresponds to M. C., sec. 38.)

Sec. 44. Alterations to conform to ordinances.—No wall, structure, building, part or parts thereof, shall hereafter be built, constructed, altered or repaired, except in conformity with the provisions of this article. (*Ib.*, sec. 4; corresponds M. C., sec. 40.)

Sec. 45. Reconstruction of buildings damaged by fire.—In any case when any building is, hereafter, damaged by fire to an extent exceeding fifty per cent of the amount required to newly erect a similar building on the identical site, if such building is repaired or rebuilt, the requirements of this article shall be conformed to in every particular, precisely as required for new buildings. (*Ib.*, sec. 5; corresponds M. C., sec. 39.)

Sec. 46. Penalty for constructing or altering without permit.—Every person who, as owner, agent lessee, builder, architect, mechanic or contractor, shall commence any building in the City of St. Louis, or do or cause to be done any work on the same, or build the same, or shall proceed to alter, enlarge, repair, or remove any building, or who shall enclose any open shed, or pavilion now built, or hereafter to be built, without having first procured a permit from the Commissioner of Public Buildings authorizing the same, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars, nor more than five hundred dollars for each offense. (*Ib.*, sec. 6; corresponds M. C., sec. 41.)

Sec. 47. Form of application.—Applications for permits shall be made in writing, signed and sworn to by the owner or his agent, and shall state clearly and fully the work contemplated to be done, and the cost thereof, and shall be made upon forms or blanks to be issued for the purpose by the Commissioner of Public Buildings, and such applications shall remain on file in the building department. The Commissioner of Public Buildings may require that said application shall contain, or be accompanied with a statement in writing, sworn to before a notary public, giving the full name and residence of the owner, or of the owners of the ground and structure, building or shed, upon which it is proposed to do any work, or, if the work is proposed to be done or executed by any other person than the owner or owners of the ground, then the Commissioner of Public Buildings may require a statement in writing, sworn to as aforesaid, giving the full name and residence of such person or persons so acting as agent, lessee, or in any representative capacity, and that he or they are duly authorized to perform said work. (*Ib.*, sec. 7; corresponds to M. C., sec. 76.)

Sec. 48. Plans and specifications.—True copies of so much of said plans and specifications as may be required, in the opinion of the Commissioner of Public Buildings, to illustrate the features of construction and equipment of the building referred to in this article, shall be filed with the Commissioner of Public Buildings, and shall remain on file in his office until the completion or occupation of said building, after which such plans and specifications shall be returned by the Commissioner of Public Buildings to the parties by whom they have been deposited with him, upon the demand of said person or persons. It shall not be obligatory upon the Commissioner of Public Buildings to retain such plans and specifications in his custody for more than three months after the completion of or occupation of any building.

All plans presented for examination or filing must be drawn on tracing cloth, or other material equally durable, to scale in India or other indelible ink, or may be drawings reproduced by the sun print, or other process. The building line must be indicated on the foundation plan, and the plan of each floor and all necessary elevations and sectional drawings to fully and clearly represent the character and construction of the proposed work must be furnished, together with a plat of the lot upon which any building is to be built or altered, showing its proposed location on the lot, and the location of all other buildings then upon the lot. Such plat shall be drawn to a scale, and shall have written thereon the principal dimensions of the lot and buildings, and their location. No plans will be considered nor accepted unless accompanied by specifications sufficient to enable the Commissioner of Public Buildings to obtain full and complete information as to the character of the work to be done, and the time to be occupied in doing it. Such specifications and plans must be in duplicate and shall agree in every respect, and shall state block and lot number where the house is to be erected, and contain the name and address of the owner, architect and builder. (*Ib.*, sec. 8; compare M. C., secs. 77, 79.)

Sec. 49. Approval of plans and specifications on compliance with building code.—If the matters mentioned in any application for a permit, or if the plans and specifications accompanying and illustrating the same indicate to the Commissioner of Public Buildings that the work to be done is not in all respects in accordance with the provisions of this article, he shall refuse to issue a permit until such applications and plans and specifications shall have been made to conform in every respect to the requirements of this article, and when such applications and plans and

specifications conform to this article the Commissioner of Public Buildings shall issue a permit, and shall file said application, and shall apply to the plans and specifications an official stamp, which shall imply that the plans and specifications to which the same have been applied comply with the terms of this article. The one set of plans and specifications so stamped shall then be returned to such applicant. (*Ib.*, sec. 9; corresponds M. C., sec. 78.)

Sec. 50. Alterations of plans.—It shall be unlawful to erase, materially alter, or modify any lines, figures, or coloring contained upon plans and specifications stamped by the Commissioner of Public Buildings, or filed with him for reference. If, during the progress of the execution of such work, it is desired to materially deviate in any manner affecting the construction, or other essentials of the building, from the terms of application, plans, or specifications, notice of such intention to materially alter or deviate shall be filed in writing with the Commissioner of Public Buildings, and his written assent must first be obtained before such alterations or deviations may be made. (*Ib.*, sec. 10; corresponds M. C., sec. 80.)

Sec. 51. Revocation of permits.—If work upon any building shall be conducted in violation of any of the provisions of this article, either as to occupation of sidewalk or street, or the use or application of material or workmanship, or deviation from the approved plans and specifications, or if any false statement, in any material point, be contained in, or accompanied with the application upon which any permit has been issued, it shall be the duty of the Commissioner of Public Buildings to revoke the permit for the building operations. And it shall be unlawful, after the revocation of such permit, for any person, firm, or corporation, to proceed with such building operations until such permit shall first have been reinstated or reissued by the Commissioner of Public Buildings. Before a permit, revoked for the cause, or causes before mentioned, can be lawfully reissued or reinstated, the entire building and building site must first be put into condition corresponding with the terms of this article, and any work or material applied to the same in violation of the terms of this article shall be removed from said building. Any person, firm or corporation violating any provision of this section shall, upon conviction, be subject to the penalties provided in section 46 of this article. A permit reinstated or reissued shall be reissued or reinstated, without cost to the owner, unless the cost of said building has been found to be materially increased over the amount stated in the application, in which case the fees shall be prorated, as provided in section 54 of this article. (*Ib.*, sec. 11; corresponds M. C., sec. 84.)

Sec. 52. Expiration of permits.—If after a permit for the erection, enlargement, alteration, repair or removal of a building shall have been granted, the operations called for by the said permit shall not be begun within one year of the date thereof, or if such operations when begun are not completed within the time fixed in the said permit for the duration thereof, then said permit shall be void, and before such operations can be begun or completed, a new permit shall be procured by the owner or his agent, and fees as herein fixed for the original permit shall be paid therefor. (*Ib.*, sec. 12; corresponds M. C., sec. 83.)

Sec. 53. Extension of permits.—If it shall be found that the time called for in any permit for building operations shall expire before the said building or buildings can be completed, the Commissioner of Public

Buildings shall have the power to extend the time called for in said permit, without extra cost or charge therefor, if it shall seem to him proper to do so, from evidence he may obtain in regard to same, from the owner or architect thereof, or from the contractor for such building operations. (*Ib.*, sec. 13; corresponds M. C., sec. 85.)

Sec. 54. **Cost of permits.**—The fee to be paid for a permit for the erection or alteration of buildings, shall be one dollar, if the estimated cost of said building or buildings, or alteration, shall be less than one thousand dollars; and for every additional one thousand dollars of cost, or fraction thereof, the further sum of fifty cents shall be paid. If it should appear to the Commissioner of Public Buildings, during the erection of any building or buildings for which a permit has been issued, that the cost of said building is in excess of the amount stated in the original application, the Commissioner of Public Buildings shall have the right to re-estimate the cost of any such building or buildings, and require the owner of said building or buildings to pay an additional fee, so that the fee paid shall conform to the entire cost of said building or buildings, as provided for in this section. The fee to be paid for a permit to remove a building shall be one dollar if the building cover twenty-five hundred square feet or less of area, and the further sum of fifty cents shall be paid for every additional twenty-five hundred square feet of area or part thereof. The fee to be paid for a permit to erect signs, as provided in section 121 of this article, shall be at the rate of one dollar for every twenty-five square feet of area of such sign, or portion thereof. Each such permit shall state thereon the number and size of signs permitted thereby, and the street and number of the premises whereon they are to be placed. The fee to be paid for a permit to erect bill boards, shall be at the rate of one dollar for every five lineal feet thereof, and each such permit shall state thereon the length of bill boards permitted thereby, and the street and number of the premises whereon they are to be erected and their distance from the line of the street. The fee to be paid for a permit to erect or install any heating or power apparatus, as required in sections 149 and 150, shall be one dollar for every such apparatus. (*Ib.*, sec. 14; compare M. C., sec. 82.)

Sec. 55. **Inspection fees.**—The fee to be paid for each inspection, as provided in sections 56, 57, 150 and 151 of this article, shall be one dollar for each inspection. It shall be unlawful for any person or persons to proceed with any operation provided for in said sections before such inspections have been made and the fee for the same has been paid. (*Ib.*, sec. 15; compare M. C., sec. 86.)

Sec. 56. **Of Inspection; duty to notify when ready for inspection.**—No building, partition or structure shall be covered in by lathing, plastering, sheathing or otherwise, until the Commissioner of Public Buildings has, by examination, ascertained that the said building, partition or structure has been built in accordance with the provisions of this article. It shall be the duty of the owner, or his duly authorized agent, or the builder, to notify the Commissioner of Public Buildings, in writing, whenever any building is ready for inspection. And no building, partition or structure, shall be covered in by lathing, plastering, sheathing or otherwise, until such inspection is made, and the Commissioner of Public Buildings has issued a certificate to the effect that the said building, partition or structure has been built in compliance with the requirements of this article, and the fee for said inspection has been paid, as provided in section 55 of this article. (*Ib.*, sec. 16; compare M. C., sec. 156.)

Sec. 57. Alterations.—Before proceeding to raise, enlarge, alter, build upon, move or tear down any existing structure or building in the City of St. Louis, the person or persons proposing to raise, enlarge, alter, build upon, move or tear down any such structure or building shall make application in writing to the Commissioner of Public Buildings for an inspection of such structure or building. The fee to be paid for such inspection shall be as provided in section 55 of this article. Alterations in buildings which do not involve any change in their structural parts or of their stairways, elevators, fire escapes or other means of communication or ingress or egress may be made without such inspection and the payment of said fee. (*Ib.*, sec. 17.)

Sec. 58. Board of Appeals.—There shall be in the City of St. Louis a board to be called the Board of Appeals, from the rulings of the Commissioner of Public Buildings, which board shall consist of three members to be appointed as follows: One inspector of the St. Louis Fire Prevention Bureau, who shall be appointed by the Mayor, with the approval of a majority of the Council, and who shall hold his office for three years from the date of his appointment. One architect, who shall be appointed by the Mayor, with the approval of a majority of the Council, and who shall hold his office for two years from the date of his appointment. One master builder, who shall be appointed by the Mayor, with the approval of a majority of the Council, and who shall hold his office for one year from the date of his appointment. The terms of the several members of said board shall be three years each after the expiration of the first term. Any member of said board may be removed by the Mayor or Council for malfeasance, incapacity or neglect of duty. Said board shall meet the second and fourth Mondays of each month to consider such matters as may be brought before them. Special meetings may be called by the Commissioner of Public Buildings, with the approval of the Mayor. Each member of said board shall be paid by the city a compensation of ten dollars for each meeting. The reasonable expenses for said board, including clerical assistance, shall be paid by the City of St. Louis. (*Ib.*, sec. 18; corresponds ord. 20532.)

Sec. 59. Appeal from the decision of the Commissioner of Public Buildings.—Any applicant for a permit from the Commissioner of Public Buildings required by this article, whose application has been refused, or revoked; or any person who has been ordered by the Commissioner of Public Buildings to incur any expense, may, within fifteen days after being notified of such refusal, or order, appeal from the decision of the Commissioner of Public Buildings, by giving the Commissioner of Public Buildings notice in writing that he does so appeal; said notice shall be accompanied by a certificate that said applicant has paid into the City Treasury the sum of five dollars, to be retained by the city; provided, however, no appeal to the board shall be legal in case of unsafe structures and condemnations, as provided hereafter in section 212 [216] of this article. Any person, the value of whose property may be affected by work to be done under any permit granted by the Commissioner of Public Buildings, may, within three days after the issuing of such permit, appeal by giving to the Commissioner of Public Buildings notice in writing that he does so appeal, and payment of the fee as aforesaid. All cases in which appeals have been taken as above provided, shall be referred to the Board of Appeals, and said board shall, after hearing, direct the Commissioner of Public Buildings to issue his permit under such conditions, if any, as they may require, or to withhold the same. (*Ib.*, sec. 19; corresponds M. C., 247.)

Sec. 60. Right to enter premises.—Any member of the Board of Appeals and any officer of the building department may, so far as may be necessary for the performance of his duties, enter any building or premises in the City of St. Louis. (*Ib.*, sec. 20; corresponds M. C., sec. 249.)

Sec. 61. Definitions of terms used.—In this article the following terms shall have the meanings respectively here assigned to them: “Com. of Pub. Bldgs.” shall mean the Commissioner of Public Buildings of the City of St. Louis. “Repairs” shall mean the renewal or restoration to its original condition, of any part of a building which may have become wholly or partly unsound or dilapidated or unfit for the purpose for which it was created and which renewal may be necessary to maintain the integrity of the building. But the terms shall not be construed to permit the converting of a building, in whole or in part, into a new one, or the creating of new conditions, except in accordance with the provisions of this article. “Minor repairs” shall be taken to mean insignificant repairs not affecting the structural parts of the building, and costing less than one hundred dollars. “Alterations” shall be taken to mean a change in or addition to a building. “Minor alterations” shall be taken to mean slight alterations not affecting the structural parts, arrangement, or occupancy, of a building, and costing less than one hundred dollars. “Building” shall be taken to mean any structure built for the support, shelter or enclosure of persons, animals or chattels; and when separated by division walls, without openings, then each portion of such building, so separated, shall be deemed a separate building. “Building of the first-class” shall be taken to mean a building of fireproof construction throughout, the structural parts of which are wholly of brick, stone, tile, concrete, iron or steel, or other equally substantial and incombustible materials. “Building of the second-class” shall be taken to mean a building of mill or slow combustion construction wherein all floors and roofs are constructed of heavy dressed timber, exposed beams, girders and planking and supported upon masonry walls, or on wooden or fire proofed iron or steel columns. “Building of the third-class” shall be taken to mean any building not of the first or second-classes, the external and party or division walls of which are wholly of brick, stone, concrete, or other equally substantial and incombustible materials. “Building of the fourth-class” shall be taken to mean any building not of the first, second or third-classes. “Fireproof” shall be taken to mean not only non-inflammable, but fire-resisting and non-heat conducting. “Cellar” or “basement” shall be taken to mean the lower story of a building, when wholly or partly below ground. “Story” shall be taken to mean that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. “Attic” shall be taken to mean any unfinished space immediately below the roof of a building, or an upper room having a height of less than eight feet. “Grade” shall be taken to mean the established sidewalk level at the building line of any street, or if the building be not built on the building line of a street, then the exposed surface of the earth adjoining any wall shall be taken to be the grade for that wall. “Building line” shall be taken to mean the established boundary line between private property and any public highway. “Height of a building” shall be taken to mean the vertical distance between the highest part of the roof and the highest point of the grade. “Foundation” shall be taken to mean that portion of a building below ground and in contact with the earth. “Party wall” shall be taken to mean a masonry wall used or built to be used for the common separation or support of adjoining buildings of separate owners. “Division wall” shall be taken to mean a masonry wall entirely dividing or separating one building from another. “Partition wall” shall be taken to mean

any interior wall of masonry. "External wall" shall be taken to mean every outer vertical enclosure of a building other than a party wall. "Curtain wall" shall be taken to mean an enclosing wall built and supported between columns or piers, and on girders or other supports, and sustaining no weight but its own. "Skeleton building" shall be taken to mean a building of the first-class, the walls, floors, and other parts of which are supported upon and carried by a metal framework. "Slow combustion construction" or "mill construction" shall be taken to mean buildings of the second-class as herein defined. "Dwelling" shall be taken to mean any building wherein the second story and all stories above it are occupied by a single family. "Lodging House" shall be taken to mean a building wherein persons are accommodated with sleeping apartments, and includes hotels, boarding houses and apartment houses where cooking is not done in the several apartments and where there are more than five bedrooms for hire. "Tenement house" shall be taken to mean a building which, or any portion of which, is occupied by more than two families living independently of each other, and doing their cooking upon the premises, or by more than one family above the first story, so living and cooking. "Theater" shall be taken to mean a building, or portion of a building, wherein it is made a business to carry on the presentation of dramatic, operatic, or other performances, or shows, for the entertainment of spectators and having a permanent stage for such performances, whereon are employed scenery and other movable appliances. (*Ib.*, sec. 21; corresponds M. C., sec. 94.)

Sec. 62. First-class buildings.—A first-class building shall be constructed wholly of non-inflammable materials, with walls, floors and roofs constructed of masonry or concrete; or of iron or steel frame work, filled between and around with masonry, concrete, terra cotta or other durable non-inflammable and fire-resisting materials. All columns, girders, beams, struts and all structural members shall be protected with fireproof materials, so put on and held in place as to effectually protect such members from the effect of fire, corrosion or abrasion. All exterior columns and all girders or other framing, supporting more than one story of masonry, shall be protected by a thickness at any point of at least eight inches of fire-proof material. All structural members of buildings of this class which may be subjected to unusual responsibility shall be especially protected and fireproofed in such a manner as to effectually protect such members and their loads from risk of accident by fire or otherwise. All columns other than those above mentioned shall be protected by fire-proofing not less than three inches in thickness at any point. Floor and roof beams and other framing shall be protected by fireproofing not less than two inches in thickness. In buildings of the first-class wood shall only be used for the wearing surface of floors, and the necessary sleepers for their attachment, for windows and door-frames, sashes, doors and finish around them, hand rails and treads for stairs, and wainscoting except where especially prohibited by this article. There shall be no woodwork of any kind built into masonry walls. Rough frames and nailing blocks of wood may be permissible to be built into non-bearing partitions of fireproof materials. There shall be no air spaces between the top of any floor construction and the floor boarding, or below any wooden stair tread, or behind any woodwork, but all such spaces shall be solidly filled with concrete, or plaster, or other fireproof materials. (*Ib.*, sec. 22; compare M. C., sec. 100.)

Sec. 63. What buildings shall be first-class.—Every building hereafter erected and to be used as a school building, hospital building, asylum or sanitarium, having more than two stories above the basement; and every

building hereafter erected to be used as a lodging house or tenement house or office building and having fifty or more rooms above the first story, or more than four stories in height above the basement; and every building hereafter erected to be used as a theater, seating one hundred or more persons, and having seats for spectators above the main floor thereof, shall be a building of the first-class. Every building hereafter converted or enlarged for use as a school, hospital, asylum, sanitarium, hotel, lodging house, tenement house, office building, or theater, shall comply with the provisions of this article, relating to such buildings. Every building hereafter erected, altered or enlarged to a height greater than ninety feet above grade, shall be a building of the first-class, and shall comply in its construction with all the provisions of this article relating to buildings of the first-class. (*Ib.*, sec. 23; compare M. C., sec. 101.)

Sec. 64. Second-class buildings.—Second-class buildings shall have walls and partitions of masonry or concrete of the thickness required by section 86. Walls at every floor level shall have masonry corbels or offsets of not less than four inches upon which the floor planking shall rest. Iron or steel columns, girders, beams or other structural parts shall be fireproofed in the same manner as is required in section 63 for buildings of the first-class. There shall be no hollow wooden partition or any hollow or concealed spaces in any wooden construction. But whenever wood shall be used, it shall be solid; and it shall not be permissible in any second-class building to so plaster or sheath, or cover in with any materials, as to leave any hollow space behind the same. All planking and all wooden columns, girders, and beams shall be dressed; and all exposed corners shall be chamfered or rounded. Wooden columns shall be bored the full length on their axes with one and one-half inch holes; and transversely at top and bottom with one-half inch holes; the least dimensions of wooden columns, beams or girders shall not be less than eight inches. All columns and girders shall rest upon iron plates of sufficient size and thickness to receive the loads from such columns and girders, and properly distribute the same to the supporting columns of masonry below, so as not to exceed the allowable strains for the various materials, as given in section one hundred and seventy-eight of this article. Floors and roofs shall be of dressed and tongued planking not less than two and five-eighths inches thick. This planking shall constitute the under floor, upon which shall be laid a top floor of tongued and grooved material and crossing the under floor at an angle of not less than forty-five degrees. There shall be laid between the under floor and top floor a firestop of approved fireproof materials, which shall not be inferior to a double thickness of two-ply asbestos paper, well turned around all walls and columns. There shall be provided approved water outlets for all floors, so distributed as to provide one outlet for every two thousand square feet of floor area. These outlets shall be set two inches below the floor level and be arranged to convey water to the outside of such building. Windows shall be provided with fire shutters or be otherwise made fire-resisting as provided in section 141 of this article. Every building exceeding two stories in height and having an undivided floor area exceeding seven thousand five hundred square feet, and every building exceeding seventy-five feet in height, when not required by this article to be a building of the first-class, shall be a building of the second-class. But nothing in this section or in the preceding section shall be so construed as to prevent the erection of grain elevators as provided in section 67 of this article. (*Ib.*, sec. 24.)

Sec. 65. Third-class buildings.—Third-class buildings shall not have a height exceeding seventy-five feet; nor an undivided floor area exceeding seven thousand five hundred feet square, when more than two stories in

height. The floors and roofs of such buildings may be of joist construction, and partitions may be of studs and plaster, or wood, except where required by this article to be of masonry or fireproof materials. The roofs of such buildings shall be covered with slate, tile, metal, gravel, or other equally non-inflammable materials. All buildings hereafter erected, enlarged or altered within the fire limits as described in section 66 of this article shall, when not buildings of the first or second class, be buildings of the third-class. But nothing in this section shall be construed to prevent the erection within the fire limits of such buildings as are provided for in sections 67 and 68. (*Ib.*, sec. 25; compare M. C., 206.)

Sec. 66. Fourth-class buildings not permitted within the fire limits—fire limits defined.—No fourth-class building shall hereafter be built within the district known as the “fire limits,” as hereinafter defined, except such buildings as are provided for in sections 67 and 68 of this article. The fire limits shall consist of a district bounded by a line one hundred and fifty feet beyond the following described boundary: Beginning at a point on the Mississippi River where the north line of Adelaide avenue extended eastwardly meets said river, thence westwardly along said extended north line and said north line of Adelaide avenue to North Broadway, thence northwardly along the east line of North Broadway to Carrie avenue, thence westwardly along the north line of Carrie avenue to Newstead avenue, thence southwardly along the west line of Newstead avenue to Natural Bridge road, thence westwardly along the north line of Natural Bridge road to Kingshighway, thence southwardly along the west line of Kingshighway to Easton avenue, thence westwardly along the north line of Easton avenue to the city limits, thence southwardly with the city limits to a point where the north line of Forest Park extended westwardly intersects the city limits, thence eastwardly along said north line of Forest Park extended westwardly and said north line of said park to the west line of Kingshighway, thence south along the west line of Kingshighway to Arsenal street, thence eastwardly along the south line of Arsenal street to Morganford road, thence south along the south line of Arsenal street to Morganford road, thence south along the west line of Morganford road to Meramec street, thence east along the south line of Meramec street to Grand avenue, thence south along the west line of Grand avenue, and its extension to Loughborough avenue, thence east along the north line of Loughborough avenue to Eighth street, thence south along the east line of Eighth street to Marceau street, thence east along the north line of Marceau street to the Mississippi River, except that said fire limits shall not extend beyond those portions of Loughborough avenue, Eighth street, and Marceau street, here named as bounding said district. (*Ib.*, sec. 26; compare M. C., sec. 204.)

[Above section amended after passage of Rev. Code by ord. 23186, approved Aug. 29, 1907.]

Charter Regulations as to frame or wooden buildings: Chart., Art. XI, sec. 4; and also Charter Art. III, sec. 26, clause 11. Where a city charter confers authority to prohibit wooden buildings within a certain district and an ordinance to that effect is passed, the city authorities may remove a building erected in violation thereof, without any judicial proceeding, this being a police power. But such agents must show that in tearing it down they use reasonable care to preserve the materials: *Eichenlaub vs. St. Joseph*, 113 Mo. 395.

Sec. 67. Iron-clad buildings.—In cases where no permanent foundation for a substantial building exists, and an iron-clad building will not prove hazardous to surrounding property, a permit may be granted for the erection of such building within the fire limits, in accordance with the provisions of this section. No such building shall exceed seventy-five hundred square feet in area, nor exceed twenty-five feet in height, nor exceed one story in height. It shall not be permissible for any such building,

when exceeding one thousand square feet in area, to have any wooden flooring, unless laid on sleepers imbedded in the earth or in concrete, so that there shall be no open space beneath such floor. Each piece of the wooden framework of such buildings when exceeding three hundred square feet in area, shall be encased on all sides with sheet metal of a thickness not less than number twenty-four gauge; and the roofs and inclosed sides of such buildings shall be covered with corrugated sheet metal of a thickness not less than number twenty-four gauge, attached directly to the framework without the use of wooden sheathing of any kind. No such building shall be placed nearer to the line of any ground of any other owner than five feet; nor nearer to another building than ten feet, unless separated therefrom by a brick wall of the standard thickness, as required by sections 86 and 96 of this article. Nor shall these spaces ever be less than one foot for every eight thousand cubic feet of size of such building, between it and the line of an adjoining owner, nor less than one foot for every four thousand cubic feet of size of such building, between it and another building, unless separated therefrom by brick walls as aforesaid. (*Ib.*, sec. 27; compare M. C., sec. 205.)

Sec. 68. Frame buildings inside of the fire limits.—Frame buildings inside of the fire limits, as established in section 66 of this article, shall have roofs of gravel, slate, tile, metal or other equally incombustible materials, and shall not be built nearer than three feet to the line of any ground of another owner, nor nearer than six feet to any other building, unless separated therefrom by a brick wall of the standard thickness required in sections 86 and 96, nor nearer than ten feet to the line of any street, nor on the front half of any lot, and shall not exceed three hundred square feet in area, nor twelve feet in height, and no such building as is permissible in this and the preceding section shall be lathed or plastered or lined so as to constitute a habitation, or be used for a dwelling; provided, that where a frame building may be so placed as to not be nearer than seventy-five feet to the line of any ground of another owner, nor nearer than seventy-five feet to any other building, nor nearer than seventy-five feet to the line of any street, it may then be permissible to build any such frame building within the fire limits as is permitted in section 69 of this article; and provided, further, that nothing in this section contained shall be construed to apply to, or prevent, the erection of grain elevators as usually constructed, provided they are erected on or adjacent to the river front or railroad tracks, in isolated localities, and under such conditions as the Commissioner of Public Buildings may prescribe, including location, provided that nothing in this section shall prevent the construction of lumber sheds in lumber yards to protect lumber and other material carried in stock. And, provided further, that it shall be permissible to erect open shelters within the fire limits, in accordance with the provisions of this section. Such open shelters shall not exceed twenty feet in height, and shall be roofed with gravel, slate, tile, metal or other equally incombustible materials, and shall be open for at least one-third of their height on all sides, unless closed with brick walls of the thickness prescribed in sections 86 and 96 of this article. No such open shelter or shed shall exceed ten thousand square feet in area, nor shall any such shelter be built nearer than three feet to the line of any ground of another owner, nor nearer than three feet to another building, and this distance shall never be less than one foot for every four hundred square feet of area of such shed, unless separated from such other owner, or other building, by brick walls of the thickness provided in sections 86 and 96. (*Ib.*, sec. 28.)

Sec. 69. Fourth-class buildings where permissible.—No fourth-class building in the City of St. Louis shall exceed four hundred thousand cubic feet in size, nor forty feet in height; nor shall any fourth-class building be placed nearer to the line of the ground of another than three feet, unless separated therefrom by a brick wall of the standard thickness required by sections 86 and 96, and this distance shall never be less than one foot for every ten thousand cubic feet of size of such building. Nor shall any fourth-class building be built in any block nearer than seventy-five feet to the line of any street where there are fronting upon either side of such street along said block six or more buildings of the first, second or third-class, unless the written consent of a majority of owners of property fronting upon both sides of said street along such block, be filed in the office of the Commissioner of Public Buildings. No fourth-class dwellings, tenements or stores shall be built in a continuous row, except there be brick division walls of the thickness required in sections 86 and 96, separating such buildings and extending through the roofs as provided in section 102. (*Ib.*, sec 29.)

Sec. 70. Quality of materials.—All materials are to be of such quality for the purpose for which they are to be used as to insure, in the judgment of the Commissioner of Public Buildings, ample safety and security to life, limb and neighboring property. Building materials are to conform to legal, trade, and manufacturers' standards, and to be subject to the approval of the Commissioner of Public Buildings, who may require tests to be made by the architect, engineer, builder, or owner to determine the strength of the structural materials before or after they are incorporated in a building, and may require certified copies of results of tests made elsewhere from the architect, engineer, builder, owner, or other interested parties. (*Ib.*, sec. 30; compare M. C., sec. 95.)

Sec. 71. Height of buildings.—No building or other structure hereafter erected, except it be an hotel or office building or a spire, tower or smoke stack, shall be of a height exceeding one hundred and fifty feet, and if such building front on a street sixty feet or less in width, then such building shall not exceed two and one-half times the width of such street; and no hotel or office building hereafter erected shall be of a height exceeding two hundred and six feet, measured from the sidewalk to the top of the roof covering. (Ord. 22133, amending ord. 22022, sec. 31.)

Sec. 72. Protection against excavations.—All excavations shall be so protected by the person causing same to be made that the adjoining soil shall not cave in by reason of its own weight, or by reason of any load that may rest upon it. (Ord. 22133, sec. 32; M. C., sec. 106.)

See note to next section.

Sec. 73. Depths of excavations—duties of adjoining owners.—The legal depth for excavations to the bottom of footings shall be nine feet for dwellings, and fifteen feet for all other buildings—to be measured from the curb level on the part line. Whenever an excavation shall be carried to a greater depth than the legal depth above given, it shall be the duty of the person making or causing such excavation to be made to preserve any contiguous legal wall or walls from injury; and sustain, protect and underpin the same at his own cost and expense, so that said wall or walls shall be and remain practically as safe as before such excavation was commenced. He shall give timely written notice to adjoining property owners of his intention to do so, and adjoining property owners shall permit the occupancy of their ground and any buildings, so that their walls may be underpinned

and sustained. If such excavation shall not be carried to a depth greater than the legal depth above given, the owner or owners of such adjoining or contiguous wall or walls, shall preserve their walls from injury, and so sustain, protect and underpin the same at their own cost and expense, that the said wall or walls shall be and remain as safe as before such excavation was commenced, and said owner or owners of adjoining or contiguous wall or walls, shall be permitted to enter upon the premises where such excavation is being made for that purpose when necessary. (*Ib.*, sec. 33; corresponds M. C., sec. 106.)

The city has no power to change the common law unless so authorized; the Charter does not authorize it to change the duties of adjoining owners at common law. At common law the right to lateral support extends only to the ground in its natural state, not when incumbered by improvements; it is the duty of one about to excavate on his lot to notify the adjacent owner of buildings and to use reasonable care in excavating to prevent injury, but the cost of shoring and preventing injury to adjacent property falls on the owner of such buildings, and in so far as this ordinance departs from the common law and imposes other burdens on the excavator, it is void: *Carpenter vs. Reliance Realty Co.*, 103 Mo. App. 480. The general duty is thus stated in *Gerst vs. St. Louis*, 185 Mo. 191, 209: "It is the duty of one making an excavation on his own land, deeper than the foundation of a building on an adjoining lot, and so near such building as to endanger it, to notify the adjoining owner and afford him a reasonable opportunity to protect his property, and a failure to discharge such duty is negligence for which an action may be maintained for the injury resulting, unless the adjoining owner had actual knowledge of such proposed excavation, and there is no good reason why this rule should not be applied to municipal corporations and their contractors as well as other persons."

Sec. 74. Ground test.—The Commissioner of Public Buildings may require any applicant for a permit to ascertain, by boring or other test, the nature of the ground upon which he proposes to build. The soil to be tested shall be bored to a depth of not less than ten feet below the bottom of the lowest footing, in as many places as may be necessary, to discover its composition and condition. The Commissioner of Public Buildings may require tests to be made on the bottoms of excavations for footings and foundations, to determine the actual load necessary to produce settlement, and the amount of load imposed thereon shall be based upon data thus derived, but in no case shall the load exceed three tons per square foot. (*Ib.*, sec. 34; compare M. C., sec. 108.)

Sec. 75. Loads to be carried by the soil.—The load carried by the soil shall be the total dead load, and an average live load of not less than ten pounds per square foot of all the floor area of the building, when used as an office building, lodging or tenement house, and an average live load of not less than twenty pounds per square foot of all the floor area, where such building is used for mercantile purposes; and an average live load of not less than forty pounds per square foot of all the floor area, where such building is used as a warehouse. Good, solid, natural clay shall be deemed to safely sustain a load of three tons to the superficial foot. The area of footing courses shall be sufficient to meet this requirement. (*Ib.*, sec. 35; compare M. C., secs. 108, 109, 222.)

Sec. 76. Piling.—When the nature of the ground requires that buildings shall be supported on piles, the number, diameter, bearing and spacing of such piles shall be sufficient to support the superstructure imposed. All piles shall be capped with concrete having a firm bearing on the piles. Such concrete to be made as provided in section 82 of this article. All piles shall be driven and the tops cut off on a level to insure constant moisture in all parts of the piles. (*Ib.*, sec. 36; corresponds M. C., sec. 114.)

Sec. 77. **Foundations.**—Every building of the first, second and third-class, and every building of the fourth-class of more than one story in height, shall have foundations of stone, brick or concrete, which shall extend not less than two feet six inches below the adjoining exposed surface of the earth, and shall have suitable footings and rest on solid ground, or on benched and leveled rock, or upon piles. Foundation walls of stone shall not be less than six inches thicker than the walls next above them, to a depth of ten feet below grade, and for every additional five feet in depth, or part thereof, they shall be increased six inches in thickness. No stone foundations supporting a three-story building shall be less than twenty-one inches in thickness. All stone walls twenty-four inches or less in thickness shall have at least one header extending through the wall in every three feet in height from the bottom of the wall, and in every four feet in length, and if over twenty-four inches in thickness shall have one header for every six superficial feet on both sides of the wall, and running into the wall at least two feet. All headers shall be at least eighteen inches in width and consist of good flat stone. No stone shall be laid in such walls in any other position than on its natural bed. Foundation walls of brick or concrete shall not be less than four inches thicker than the walls next above them, to a depth of eight feet below grade, and for every additional five feet in depth, or part thereof, they shall be increased four inches in thickness. (*Ib.*, sec. 37; compare M. C., secs. 115, 116, 117, 118.)

Sec. 78. **Ground dampness.**—In all cases where the nature of the soil is damp or contains water, suitable provisions shall be made to carry off all such dampness or moisture, by means of drain tiles, laid outside of the walls, or inside of the walls, or both outside and inside, such drain tiles to be connected with a catch basin or other suitable device, and thence discharged into the house drain. (*Ib.*, sec. 38; corresponds M. C., sec. 110.)

Sec. 79. **Retaining walls.**—Retaining walls shall not be less than thirty inches thick at the bottom for a height of twelve feet, and for every additional five feet or fraction thereof in height at least six inches shall be added to the thickness of the wall at the bottom. Such walls may be battered to eighteen inches at the top. All retaining walls shall be laid up in first-class hydraulic cement mortar, to be made as provided in section 83 of this article, and shall be well grouted in against the earth bank, or pointed on the outside at least four feet down from the top of the wall. (*Ib.*, sec. 39; corresponds M. C., sec. 113.)

Sec. 80. **Footings.**—Footings shall be of stone or concrete, or both, or stepped-up brick work, of sufficient thickness and area to safely bear the weight to be imposed thereon. If footings be of concrete, the concrete shall not be less than eight inches thick under walls, and not less than twelve inches thick under piers, columns and posts; if of stone, the stone shall not be less than six inches in thickness under walls, and at least twelve inches wider than the bottom width of said walls; if under piers, columns or posts, such footings shall not be less than eight inches in thickness and at least twelve inches wider on all sides than the bottom width of said piers, columns or posts. All footing stones shall be well bedded and laid crosswise, edge to edge. If stepped-up footings of brick are used in place of stone above the concrete, the steps or offsets, if laid in single courses, shall not exceed one and one-half inches, or if laid in double courses, then each shall not exceed three inches, starting with the brick work, covering the entire width of the concrete, so as to properly distribute the load imposed thereon. If steel or iron rails or beams are used as parts of foundations, they must

be thoroughly imbedded in concrete well rammed to fill all cavities. The beams or rails must be entirely enveloped in concrete and the exposed external surfaces of such concrete shall be coated with cement mortar. (*Ib.*, sec. 40; corresponds M. C., sec. 119.)

Sec. 81. Materials for walls.—The walls of every building other than buildings of the fourth-class (see sections 61, 67, 68 and 69) shall be constructed of stone, brick, iron or other hard, incombustible materials, and the several component parts of such buildings shall be as hereinafter provided. (*Ib.*, sec. 41; compare M. C., sec. 96.)

Sec. 82. Concrete.—In all buildings of the first, second and third class hereafter erected, where concrete is used for walls or foundations, the concrete shall be composed of Portland cement, clean, sharp river sand, and limestone, or other equally good stone macadam. The stone shall be crushed or broken into small pieces, the largest of which shall pass freely through a ring two inches in diameter. The proportions of cement, sand and macadam shall be as follows: One part cement to not more than three parts of sand, and not more than five parts of macadam, mixed in such manner that the materials shall be a uniform mass. All concrete shall be used at once, and before it has become set or hard. (*Ib.*, sec. 42; corresponds M. C., sec. 120.)

Sec. 83. Quality of mortars.—In all buildings of the first and second class hereafter erected, the mortar used in the foundations and walls below the level of the first floor, shall not be inferior to a mortar composed of one part Portland cement and three parts of clean sand, thoroughly mixed dry so as to be of one uniform color, and to have the proper amount of water added to make a smooth working mortar and used while fresh. From the first floor level to the top of the building, for all buildings of the first and second-class, the mortar used shall not be inferior to a mortar composed of one part natural cement to three parts of sand, mixed and used as described above, or a mortar composed of equal parts of Portland cement mortar, as first above described, and lime mortar, thoroughly mixed and used while fresh. In buildings of the third-class hereafter erected more than three stories in height above the basement, the mortar shall not be inferior to that herein required for buildings of the first and second-class. In buildings of the third-class hereafter erected more than three stories in height above the basement, the mortar shall not be inferior to that herein required for buildings of the first and second-class. In buildings of the third-class hereafter erected three stories or less in height above the basement, and in foundations for buildings of the fourth-class, the mortar used shall not be inferior to a mortar made from fresh burned lime, well slaked and mixed with clean, sharp sand. All mortars shall be made with such materials and such proportions of sand as will secure thorough adhesion to the materials with which they are to be used; and it shall be unlawful to use mortars not so made, or to use mortars inferior to those herein described. (*Ib.*, sec. 43; compare M. C., sec. 97.)

Sec. 84. Quality of brick work and bond.—The bricks used in all buildings of the first and second-class shall not be inferior to the grade known as "strictly hard and red" bricks. The bricks used in all buildings of the third-class, exceeding three stories in height, shall not be inferior to "ordinary hard and red" bricks. The bricks used in all other buildings shall not be inferior to "merchantable" bricks. The bricks used in the foundations of all buildings shall not be inferior to "straight hard" bricks. All walls of brick shall be thoroughly bonded and tied and solidly built;

all joints not covered in shall be struck. Every sixth course, at least, of a brick wall shall be a heading or bonding course, except where walls are faced with face brick, in which case every sixth course shall be bonded with bond brick, Flemish headers, or with a metal bond satisfactory to the Commissioner of Public Buildings. (*Ib.*, sec. 44; corresponds M. C., sec. 98.)

Sec. 85. **Wetting bricks.**—Bricks when laid in warm weather shall be wetted, when laid in cold weather shall be thoroughly dry and protected from the elements. (*Ib.*, sec. 45; corresponds M. C., sec. 99.)

Sec. 86. **Thickness of brick walls.**—The minimum allowable thickness for brick external and division bearing walls for buildings of the first, second and third classes, except for dwellings, lodging houses and tenement houses (see section 103) shall be, for the two top stories, thirteen inches; for the next two stories below, eighteen inches; and for each succeeding two stories of increased height, the walls shall be four inches thicker than the two stories next above them. Party walls and division walls of any length in building for mercantile or manufacturing purposes shall be four inches thicker in all stories than the thickness given above. Walls exceeding one hundred and ten feet in length, for buildings more than one story in height, shall be made four inches thicker than the minimum thickness first given above, unless there be intersecting walls of equal height, or solid buttresses extending to the top of the wall, and having a projection beyond such wall of not less than nine inches, with a sectional area of not less than three hundred square inches, for each eighteen lineal feet of such wall. (*Ib.*, sec. 46; compare M. C., secs. 121, 122, 128.)

Sec. 87. **Walls of buildings supporting trusses.**—The walls of churches, theaters, foundries, machine shops, armories, markets, assembly rooms, halls, and buildings of like character shall not be less in thickness than the thickness prescribed in preceding section, with such piers or buttresses in addition as may be necessary to make such building safe and substantial within the terms and provisions of this article. (*Ib.*, sec. 47; corresponds M. C., sec. 123.)

Sec. 88. **Increased thickness of bearing walls with openings.**—If any horizontal section through any part of any bearing wall in any building other than a skeleton building, shows more than fifty per centum area of flues or openings, the said wall shall be increased four inches in thickness for every ten per centum or fraction thereof of flue or opening area in excess of fifty per centum. In any wall the same amount of materials may be used in piers or buttresses having the same sectional area as would be required for a solid wall. (*Ib.*, sec. 48; corresponds M. C., secs. 130, 126.)

Sec. 89. **Recesses and chases.**—Recesses for stairways and elevators may be left in the foundation or cellar walls of any building, but in no case shall the walls be of less thickness than the walls of the third story, unless reinforced by additional piers or iron columns and girders, securely anchored to the walls on each side. No chase for water or other pipes shall be made in any pier, and in no wall more than one-half of its thickness. No horizontal chase or slot shall be permissible in any wall, except the wall be reinforced in such a manner as to fully compensate for any reduction of its strength by reason of such chase or slot. Recesses for alcoves and similar purposes shall not be deeper than half the thickness of the wall, and in no case shall there be less than nine inches of brick work at the back of such

recesses, provided that such recesses shall not be more than eight feet wide, and shall be arched over and not carried up higher than a point eighteen inches below the bottom of the beams of the floor next above. The aggregate area of recesses in any wall shall not exceed one-fourth of the whole area of the face of the wall on any story, nor shall any such recess be made within a distance of six feet from any other one in the same wall. (*Ib.*, sec. 49; corresponds M. C., sec. 144.)

Sec. 90. Walls with air spaces and hollow bricks.—Brick walls with an air space may be erected under this article, but the amount of material in said wall shall be the same as required for a standard wall of the same height built solid, and no such walls shall be built unless the parts of the same are connected by proper ties of brick or iron placed not over twenty-four inches apart, horizontally and vertically, throughout the entire surface of the wall. The inside four inches of standard walls may be built of hard burned hollow clay or porous terra cotta bricks of the dimensions of ordinary bricks, properly tied and bonded. (*Ib.*, sec. 50; corresponds M. C., sec. 143.)

Sec. 91. Restrictions on use of timber in walls.—No wooden blocks or timbers shall be built into any masonry walls of any buildings of the second and third-class, except finish blocks and lintels, but no wood lintels shall exceed seven feet in length. It shall be unlawful to build into any wall any continuous horizontal timber or to erect, construct, alter or build any wall upon wooden girders, rafters or lintels, or to support any such wall by any wooden support whatever; but all such supports shall be of iron, brick or stone, and of sufficient size and strength to support the superstructure. (Ordinance 22209, amending 22022, sec. 51; compare M. C., sec. 136.)

The amendment merely corrected a clerical error by omission of the word "not" after "It shall."

Sec. 92. Non-bearing walls may be of reduced thickness.—Non bearing walls may be four inches less in thickness than the minimum thickness provided in section 86, provided, however, that no wall be less than thirteen inches thick, except as hereinafter specified. (*Ib.*, sec. 52; corresponds M. C., sec. 131.)

Sec. 93. Thickness of curtain walls may be reduced.—Curtain walls may be less in thickness than the minimum thickness (see section 86 of this article) for walls of buildings of the first, second and third class, but no curtain walls shall be less than thirteen inches thick. (*Ib.*, sec. 53; compare M. C., sec. 132.)

Sec. 94. Brick or stone piers, bond and cap plates.—Every pier built of brick or stone having an area of less than nine square feet at the base, and supporting any truss, beam or girder, arch column or lintel spanning an opening over ten feet, or supporting a wall, shall be capped with an iron plate of sufficient strength and size to safely distribute the load on such pier. Brick piers shall be built of hard well-burnt brick. Brick or stone piers shall be laid in cement mortar, as provided in section 83 hereof. Isolated brick or stone piers shall not exceed in height eight times their least dimension. (*Ib.*, sec. 54; corresponds M. C., sec. 138.)

Sec. 95. **Heights of stories.**—The maximum height of stories for brick walls of the thickness given in section 86 shall not exceed for the first story, eighteen feet; for the second story, fifteen feet; for the top story, fifteen feet; for intermediate stories, fourteen feet; where story heights exceed the heights above given, the walls so increased in height shall be four inches thicker than the minimum thickness given in section 86 for every ten feet of increased height or part thereof. (*Ib.*, sec. 55; compare M. C., sec. 127.)

Sec. 96. **Brick walls for one-story buildings.**—Brick walls for one story buildings may be built nine inches in thickness where such walls do not exceed fifteen feet in height, nor fifty feet in length, but no wall supporting girders shall be less than thirteen inches thick.

Sec. 97. **Stone ashlar, terra cotta and metal facings.**—Any brick wall may be faced with stone ashlar—which ashlar shall not be less than four inches in thickness and the combined thickness of brick work and ashlar shall be at least four inches greater than the standard thickness of walls. (See section 86 of this article.) Stone ashlar shall be substantially anchored to the brick backing at least every two feet in height and four feet in length. Terra cotta facings on brick walls or piers may be used, without any increased thickness of walls, provided all such facings be backed up solid with brick or concrete, the brick or concrete to fill all the hollow spaces in the terra cotta in such a manner that the same shall be thoroughly incorporated with the wall. Where metal facings are used on brick walls no extra thickness of brick work shall be required. (*Ib.*, sec. 57; corresponds M. C., sec. 133.)

Sec. 98. **Existing party walls may be used.**—Walls heretofore built for or used as party walls, whose thickness at the time of their erection was in accordance with the requirements of the then existing ordinance but which may not be in accordance with the requirements of this article, may be used if in good condition, for the ordinary uses of party walls, provided the height of the same be not increased. (*Ib.*, sec. 58; corresponds M. C., sec. 134.)

Sec. 99. **Height may be increased.**—In case it is desired to increase the height of existing walls, which walls are less in thickness than the standard required under this article (see sec. 86), the same shall be done by a lining of brick work to form a combined thickness with the old wall of not less than four inches more than the thickness required for a standard wall corresponding with the total height of the wall when so increased in height. The said lining shall be supported on proper foundations. However, no lining shall be less than nine inches in thickness, and all linings shall be laid up in cement mortar and thoroughly anchored to the old brick walls with suitable wrought iron anchors placed two feet apart and properly imbedded into the old walls in rows alternating vertically and horizontally with each other. The old walls must first be cleaned of plaster or other coatings. In place of a brick lining as above, a skeleton steel or iron frame may be erected against said old wall and be properly anchored to same. The strength of said steel or iron frame and its foundations shall be the same as called for in buildings of skeleton steel construction for walls of similar height, and such steel or iron frame shall be fire proofed as provided in this article. Where the brick walls of dwellings, erected before the passage of this article, are found, upon inspection by the Commissioner of Public Buildings, to be sound and in good condition, and to be capable of sustaining safely an additional story, he may, at his discretion, issue a

permit for the erection of such additional story of brick work, even though the walls of the existing building be of less thickness than that required by this article. (*Ib.*, sec. 59; compare M. C., sec. 135.)

Sec. 100. Walls not to be carried up in advance of others.—No wall or walls of any building, other than a skeleton building, shall be carried up in advance of any other wall of said building, except in the following manner: In all cases where one or more walls are carried up in advance of other walls of the same building, suitable provisions shall be made to properly bond together and anchor such walls every four feet in their height by wrought iron tie anchors, not less than one and one-half inches by three-eighths of an inch in size, and four feet long. All piers shall be anchored to beams or girders on the level of each tier. (*Ib.*, sec. 60; corresponds M. C., sec. 139.)

Sec. 101. Walls and beams to be braced.—The walls and beams of every building, during the erection or alteration thereof, shall be strongly braced from the beams of every story, and when necessary shall also be braced from the outside, until the building is inclosed. The roof tier of beams shall be safely anchored to the beams of the story below until the building is inclosed. (*Ib.*, sec. 61; corresponds M. C., sec. 140.)

Sec. 102. Parapet fire walls and copings.—In mercantile or manufacturing buildings, all division or party walls shall be carried thirty inches above the roof covering as a fire wall and shall be not less than thirteen inches thick above roofs and shall be coped and covered with stone, well-burnt terra cotta or cast iron; division and party walls for all other buildings excepting residences, shall be carried up to a height of not less than eighteen inches above the roof covering at any point, and for residences not less than twelve inches at any point, and shall be coped as required above. (*Ib.*, sec. 62; compare M. C., sec. 141.)

Sec. 103. Brick walls for dwellings, lodging and tenement houses.—The minimum thickness of brick external and division bearing walls, for dwellings, lodging houses and tenement houses, shall be for the three top stories, thirteen inches; for the next two stories below, eighteen inches; and for each succeeding two stories of increased height the walls shall be four inches thicker than the two stories next above them. Walls exceeding eighty feet in length for such buildings shall be made of the thickness given in section 86. (*Ib.*, sec. 63.)

Sec. 104. Slated walls and gables.—In dwellings, lodging houses and tenement houses, when required or permitted by this article to be buildings of the third-class, and a portion of a story is omitted, or roofed at a lower level than another part, and where there are no masonry walls at or below the line of such division, then it may be permissible to enclose such parts with wooden studs or sheathing, covered on the outside with slate or other durable fire-resisting material; and it shall be permissible to cover the sides of dormers, gables and bay windows of such buildings with like materials. But no such construction shall have an exposed surface exceeding two hundred and fifty square feet, nor shall it be permitted nearer than three feet to the line of any adjoining owner. (*Ib.*, sec. 64.)

Sec. 105. Fireproof walls for light and vent shafts.—In every building four stories or more in height hereafter erected all the walls or

partitions forming interior light or vent shafts shall be built of brick or other approved fireproof materials. (*Ib.*, sec. 65; corresponds M. C., sec. 146.)

Sec. 106. **Height of hollow tile partition walls.**—Four-inch and six-inch hollow tile partition walls of hard-burnt clay, porous terra cotta or other suitable fireproofing, may be built not exceeding in their vertical portion a measurement of fifteen feet and twenty feet, respectively, and in their horizontal measurement a length not exceeding seventy-five feet, unless strengthened by a steel frame, cross walls, piers, columns, or buttresses. All such walls are to be carried on proper foundations or on iron girders or columns. In no case, however, are such partition walls to be used as bearing walls or to support any load except their own weight. (*Ib.*, sec. 66; corresponds M. C., sec. 147.)

Sec. 107. **Partition walls.**—Every building not of the first-class hereafter erected, to be used as an office building or a tenement or lodging house, and having a height of three or more stories, shall be divided by brick partition walls of the standard thickness provided in section 103 of this article, so placed that no division of such building above the first story shall exceed an area of two thousand five hundred square feet. All such division walls shall, where possible, start from the foundations; and all partitions in the basement and first story of such buildings, if occupied for business purposes, shall be of brick or concrete, and shall extend to the top of the floor joists of the floor above such partition, effectually closing all spaces between the ceiling and floor with fireproof materials. Every building hereafter altered or converted to be used as an office building, or a tenement or lodging house, shall comply with all the requirements of this section. (*Ib.*, sec. 67; compare M. C., sec. 125.)

Sec. 108. **Partition and wall furring.**—No partitions of wooden studs or scantlings, or wooden wall furrings, shall be employed in the basement or cellar of any building hereafter erected or altered to be used as lodging or tenement house or office building or mercantile or manufacturing building, of four or more stories in height; nor shall any wooden or stud partition be used for the support of floors in any such building hereafter erected, altered or converted to the uses aforesaid. Nor shall any wooden partitions, or partition of wooden studs be hereafter permitted to be erected between stores, or places of business, or tenements to be occupied by separate tenants, but such partitions shall be of approved fireproof materials. (*Ib.*, sec. 68.)

Sec. 109. **Fire stops.**—Every stud partition in every building of three or more stories in height, hereafter erected or altered, to be used as an office building, or a tenement or lodging house, shall have a solid continuous shoe and cap not less than two inches thick, the full width of such partition, effectually closing all spaces between the studs of such partition and the spaces between the floor joists below or above such partition; where stud partitions in such buildings extend down to a partition cap, or a girder or plate below the floor, then the space between the studs shall be filled solid to two inches above the floor with approved fireproof materials, so as to effectually stop the passage of fire from the spaces between the studs to the spaces between the joists. Where brick walls of such buildings are furred with wooden furring, the brick work between the joists in each tier of floor beams shall project the full thickness of such furring. All slots or chases in the walls of such buildings or spaces between studs shall

be solidly stopped with fireproof materials at every floor. Where pipes or ducts or wires pass through the fire stops herein required, they shall be surrounded at such places by mortar or metal or other approved fireproof materials, in such a manner as to effectually stop the passage of fire. (*Ib.*, sec. 69; compare M. C., sec. 145.)

Sec. 110. Wall to be plastered back of wainscoting.—When wood wainscoting is used in any building such as is mentioned in the preceding section, the surface of the wall or partition behind such wainscoting shall be plastered down to the floor line, unless said wainscoting is placed against a brick, stone or tile wall or partition. (*Ib.*, sec. 70; compare M. C., sec. 150.)

Sec. 111. How cellar or basement ceiling to be plastered.—The ceilings over every cellar or basement of all dwelling, lodging or tenement houses, shall be plastered; when more than three stories in height, they shall be lathed with wire or metal lath and plastered thereon with two coats of brown mortar of good materials. (Ord. 22272, amend. 22022, sec. 71.)

[Sec. 111a. **Ceilings, partitions, etc.; how plastered.***]

*This section is one enacted after the submission of the "Revised Code" ordinance to the assembly and before its passage, hence could not be inserted therein, and referred in its title to the Municipal Code instead of Revised Code. If in time it would have appeared in the Revised Code as section 111a, hence is inserted at this place, in the note below; the ordinance, omitting caption, is as follows:

(22748)

Section One. Ordinance Number Twenty-two Thousand and Twenty-two, entitled [here follows title, etc.] is hereby amended by inserting a new section to be known as Section Seventy-one A, as follows:

Section Seventy-one A. All ceilings and stud partitions of all dwellings, lodgings and tenement houses, and furred walls of the same, when plastered with lime mortar on wood lath, must have not less than one-half inch key, leaving space between ends of lath.

For three-coat or scratch-coat work to have at least seven-eighths inch grounds or jams, mortar to be mixed as follows:

First of scratch coat to be mixed or tempered one part of thoroughly slaked lime to two and one-half parts of sand and one-half part of hair to be applied with sufficient pressure to insure a good rivet or clinch on upper side of lath, to be scratched thoroughly to make key to retain second coat. First coat to be thoroughly dry before applying; second coat or brown mortar, for three coat or scratch work to be mixed with one part of slaked lime to four parts of sharp sand, with little hair. Lime mortar for brick or tile work to be mixed with one part lime to five sand.

For two coats of laid off work. First coat to be mixed the same as in three coat work. Brown mortar or second coat to be mixed or tempered one part of lime to six parts of sand. Grounds should not be less than one-half inch. For white coating with lime mortar, lime should be well slaked and put through a fine screen or sieve.

To mix thoroughly before applying use two parts of lime to one-half part of plaster of paris.

For cornice work equal parts of lime and plaster of paris should be used. All lime should be slaked at least ten days before using. All plastering must be done straight and square to the floor line; also all plastering made flush and solid to all frames and to be straight and regular to all moldings and casings.

When patent plasters are used, such as Acme, Climax, Royal, Laramie and other standard cement plaster:

For three-coat work, lath to be spaced not less than three-eighths inch key, joints to be broken every fifth lath, leaving space between ends of lath. First coat: To each measure of fibered cement plaster add two measures of clean, sharp sand, mixed thoroughly and uniformly, and add sufficient water to temper to proper consistency. Mortar to be applied promptly with sufficient pressure to form a good rivet or clinch on upper side of lath. First coat to be thoroughly scratched to make a key to retain second coat.

Second coat to be applied when first coat is two-thirds dry, and to each measure of fibered cement plastered add two measures of clean, sharp sand, mixed thoroughly and uniformly, and add sufficient water to temper to a stiff mortar. Mortar to be applied promptly with sufficient pressure when half dry to apply finishing coat. Finish coat for smooth finish.

Unfibered cement plaster with sufficient water to temper to a proper consistency trowelled down with the least water possible and brushed with a perfectly dry brush.

Second coat work.

Grounds to be not less than one-half inch. Lath to be spaced not less than three-eighths inch key. Joints to be broken every fifth lath, leaving space between ends of lath.

First coat.

To each measure of fibered cement plaster, add two measures of clean, sharp sand, mixed thoroughly and uniformly. Add sufficient water to temper to proper consistency. Mortar to be applied at once, with coat sufficient to make walls flush with grounds. Apply finishing coat when first coat is half dry.

Approved February 5th, 1907.

Sec. 112. Roofs.—Every building required by this article to be of the first, second or third class shall have a roof covering of metal, slate, tile, gravel, or other equally durable and incombustible material. All roofs other than flat roofs, on buildings over forty-five feet high, and which are used for mercantile or manufacturing purposes, shall be wholly of fireproof materials, supported on iron or steel rafters and supports. (Ord. 22022, sec. 72; compare M. C., sec. 154.)

Sec. 113. Roofs in contiguous buildings.—In all cases where two or more buildings are built adjoining, and separated by means of a division wall or walls, the roof sheathing, cornices or ridge mouldings shall not extend over or cover any portion of such division wall or walls unless such roofs are constructed wholly of fireproof materials as mentioned in the preceding section. (*Ib.*, sec. 73; corresponds M. C., sec. 155.)

Sec. 114. Mansard roofs.—Mansard roofs shall be considered as roofs having an angle with the horizon of not less than fifty-five degrees, nor more than eighty degrees, and no such roof shall be permissible, when

parallel with and nearer than three feet to the property line of another owner, unless such roof be made wholly of fireproof materials. (*Ib.*, sec. 74.)

Sec. 115. Repairs and renewals of roofs.—The roofs of all buildings, erected from and after the passage of this ordinance, within the fire limits, as described in section 66 of this article, shall be covered with such materials as are mentioned in section 112, and when such roofs are renewed, it shall be done with such materials as will conform to the requirements of this section. (*Ib.*, sec. 75, amended by ord. 22143.)

Sec. 116. Metallic leaders from roofs.—The roofs of all buildings shall be provided with proper metallic leaders for conducting the water away from the roofs in such a manner as shall protect the walls and foundations of such buildings, or of adjacent buildings, from injury. In no case shall water from such leaders be allowed to flow upon adjoining walls or premises or upon the sidewalk, but shall be conducted by proper pipes to the sewer. If there be no sewer available, then the water from such leaders shall be conducted by pipes below the surface of the sidewalk to the street gutter. (Ord. 22022, sec. 76; see M. C. 178.)

Sec. 117. Cornices.—In all cases where a wall is finished with stone or terra cotta cornice, sixty-five per centum of the weight of the material for such cornice shall be on the inside of the outer face of the wall, or shall be securely anchored, so that the cornice shall be firmly balanced upon the wall. Cornices of all buildings over forty-five feet in height, excepting residences, shall be constructed of non-combustible material, and shall be well secured to the walls with anchors of metal brackets. The lookouts to which such cornice is secured must in all cases be of metal. In all cases the walls shall be carried up to the sheathing of the roof, and where the cornice projects over the roof the walls shall be carried up to the top of the cornice. All exterior wooden cornices, except for residences and buildings under forty-five feet in height that shall hereafter require to be repaired or replaced, shall be constructed of some non-combustible material, as required for new buildings; and all exterior wooden cornices or gutters, except residences and buildings under forty-five feet in height, that may hereafter be damaged by fire or otherwise, shall be taken down, and if replaced shall be constructed of non-combustible material. (*Ib.*, sec. 77; corresponds M. C., sec. 152.)

Sec. 118. Balconies.—Balconies may project over the street lines of buildings only when such balconies are constructed wholly of incombustible materials; but no part of such balconies shall project more than three feet beyond the street lines. No part of such balconies shall be nearer than fourteen feet from the sidewalk grade. (*Ib.*, sec. 78; corresponds M. C., sec. 212.)

See sec. 1243 prescribing penalty for projecting balconies, etc., and making same a misdemeanor, and sec. 1092 permitting balconies at theaters.

Sec. 119. Projections over sidewalks on street or alley lines.—The walls of all bay or oriel windows, except in dwellings, shall be constructed entirely of incombustible materials. The limitations, dimensions and locations of bay and oriel windows projecting over the street or alley building line shall be as follows: No part of any bay or oriel window shall be at a less distance than fourteen feet from the sidewalk grade. No part

of any such bay or oriel window shall project more than three feet over the street or alley building line. No part of such bay or oriel window shall have a greater frontage than fifteen feet. No bay or oriel window shall project over the building line of any street or alley where said street or alley is less than twenty feet wide. There shall not be more than one bay or oriel window for any twenty-five feet of frontage. Nothing herein contained shall, however, limit the number and size of bay or oriel windows which are built in such manner as not to project over the street or alley line. (*Ib.*, sec. 79; corresponds M. C., sec. 211.)

Sec. 120. Show windows.—No part of fixed or permanent store fronts, show windows or storm doors on the first story of any building intended for a protection, or to contain goods or wares for display or sale, shall be constructed so as to project beyond the building line of any street or alley. In case of alterations of store fronts or show windows necessitated by repairs or for the purpose of rearrangement, or in case of removal or restoration necessitated by fire or other damage, such alterations, renewals or restorations shall be so made as to comply in all respects with the provisions of this ordinance relating to the construction of new store fronts or show windows. (*Ib.*, sec. 80; compare M. C., sec. 213.)

Sec. 121. Signs.—Any signs now erected, or that may be hereafter erected, on the top of any building, or attached to the walls of any building, and that may become rotten or unsafe, shall be taken down and removed upon notice so to do from the Commissioner of Public Buildings. No sign exceeding twenty square feet in size shall hereafter be erected on any building without a permit from the Commissioner of Public Buildings, as provided in sections 42 and 54 of this article. No sign exceeding three and one-half feet in width, or ten feet in height, shall hereafter be attached to any building, unless such sign is constructed wholly of metal or other non-combustible material. When two or more signs are placed on any building, one above another, the width or height of the signs shall be measured as if there were but one sign, and the spaces between the signs shall be included in the width of the signs, unless there be a clear space of at least six feet between the signs. No sign shall hereafter project more than eighteen inches over the building line of any street or alley, nor shall any projecting sign be placed nearer than eight feet to the ground or pavement of any street or alley; nor shall any sign be so placed as to obstruct any fire escape, or interfere with the operations of the fire department. Every sign hereafter erected upon any building shall be supported upon heavy iron braces bolted to the walls or roofs of the building in a firm and secure manner; and it shall be unlawful for any person, firm or corporation to erect or cause to be erected any sign in violation of this section. (*Ib.*, sec. 81; compare M. C., sec. 210.)

But see R. C., sec. 1216, which seems to be not in harmony in respect to height in the clear.

Sec. 122. Towers, dormers and spires on top of buildings.—Towers, dormers and spires may be erected on the roofs of buildings, but shall not occupy more than one-quarter of the street frontage of any building, and shall not in any case have a base area of more than sixteen hundred square feet. All such dormers, towers or spires shall be built of non-combustible materials. Towers, dormers or spires shall not be permitted on buildings of the second and third class where the extreme height of the top

of the tower, dormer or spire shall exceed one hundred and fifty feet above the street grade. (*Ib.*, sec. 82; corresponds M. C., sec. 104.)

Sec. 123. Pent houses, how constructed.—Pent houses used as inclosures for tanks or elevators, and coverings for the machinery of elevators, and any other purpose whatever, hereafter erected on or above the roof of buildings, shall be built of fireproof materials or sheathed and covered on all sides with metal, including sides and edges of doors. Covers on top of water tanks placed on roofs may be made of wood, covered with sheet metal. Where party or division walls form one or more sides of pent houses, such walls shall be carried up as fire walls above the roof of the pent house. (*Ib.*, sec. 83; corresponds M. C., sec. 176.)

Sec. 124. Water tanks on iron supports.—Water tanks erected over roofs of buildings shall be supported on brick or stone bearing walls or on metal beams or posts. (*Ib.*, sec. 84; corresponds M. C., sec. 177.)

Sec. 125. Least thickness for wooden beams.—If wooden floor beams used in any building other than a building of the fourth-class, hereafter erected, shall be of a less thickness than two inches, except in dwelling houses not exceeding fifteen feet wide, the Building Commissioner may require the beams to be spaced in a way to adequately insure the safety of the building. (*Ib.*, sec. 85; compare M. C., sec. 164.)

Sec. 126. Joists to be covered during building.—It shall be the duty of the person or persons having charge of the construction of any building hereafter erected, to have joists or girders of each floor above the second floor covered with scaffold boards or other suitable material as the building progresses, so as to sufficiently protect the workmen, either from falling through such joists or girders, or to protect the workmen or others who may be under or below each floor from falling bricks, tools or other substances, whereby accidents happen, injuries occur, and life and limb are endangered. (*Ib.*, sec. 86; corresponds M. C., sec. 165.)

Sec. 127. Wooden beams in party walls.—All wooden beams and other timber entering party or division walls of buildings shall be separated from the beams or timbers entering in the opposite side of the wall by at least four inches of solid masonry. (*Ib.*, sec. 87; compare M. C., sec. 166.)

Sec. 128. Ends of beams to be beveled.—The ends of all wooden floor and roof beams, where they rest on brick walls, shall be cut to a bevel of one inch in five inches. (*Ib.*, sec. 88; corresponds M. C., sec. 168.)

Sec. 129. Bridging.—All floor joists shall be properly bridged with cross bridging; in no case shall the rows of bridging be more than eight feet apart. (*Ib.*, sec. 89; corresponds M. C., sec. 167.)

Sec. 130. Anchoring walls to joists, girders or beams.—In all buildings of the first, second and third class, the floor, joists, girders, beams, and roof framing, whether of wood, iron or steel, shall be anchored to walls in a good and substantial manner, such anchors to be placed not more than eight feet apart, and to be built into the masonry walls. The form and construction of said anchors shall be optional with the owner or

owners of the building or buildings, but in no case shall they be so constructed or placed as to cause any strain on the masonry walls, in case of giving way of the floor or roof construction caused by fire or otherwise. The anchors must in all cases be self-releasing, and secured to the joists, girders, beams, etc., whether of wood, iron or steel, at or near the lower edge. The size of such anchors must in all cases be in proportion to the joist, girder or beam, but in no case of less strength than a bar of iron one and one-quarter inch by one-quarter inch. Where joists, girders, beams, etc., abut or lap over a girder, they shall be secured to each other by nailing, or by means of strap anchors made of iron or steel not less than one and one-quarter inch by one-quarter inch, and securely nailed to joists, girders or beams when of wood; and bolted or riveted when made of iron or steel. In all cases the system of wall anchors and anchors where joists, girders or beams abut or join shall be so arranged as to secure a continuous tie from wall to wall. Where joists, girders or beams are parallel with the walls, suitable anchorage to walls shall be provided for, but in no case shall such anchorage be nearer than four feet to the center of such joist, girder or beam. (*Ib.*, sec. 90; compare M. C., sec. 173.)

Sec. 131. **Beams and woodwork near flues.**—All wooden beams shall be trimmed away from all flues, whether the same be for smoke, air, or any other use. The trimmer beams to be at least nine inches from the inside face of the flue in a straight line, but in no case shall wooden beams be built into any chimney breast, and the header beams shall be at least two inches from the outside face of the chimney breast. No wooden furring or wooden lathing shall be placed against or across any chimney breast. (*Ib.*, sec. 91; compare M. C., secs. 169, 190.)

Sec. 132. **Trimmer and header beams.**—The trimmer and header beams shall be at least double the thickness of the floor or roof beams, or shall be made of two beams forming such thickness, properly spiked or bolted. When the header is more than fifteen feet in length (or where the header is framed to the trimmer beams more than five feet from the bearing end thereof) wrought iron fitch plates of proper thickness and depth shall be placed between the wooden beams, and all suitably bolted together through the iron plates; or steel beams of sufficient strength may be used in place of fitch plate beams. Every beam, except header and tail beams, shall rest not less than four inches on the wall, or upon a girder. (*Ib.*, sec. 92; compare M. C., sec. 170.)

Sec. 133. **Stirrup irons.**—Every wooden header more than eight feet long used in any building shall be hung in stirrup irons of suitable strength for the size of the timber. (*Ib.*, sec. 93; compare M. C., sec. 171.)

Sec. 134. **Cutting beams for pipes.**—No gas, water, or other pipes which may be introduced into any building shall be let into the beams unless the same be placed within thirty-six inches of a wall or supporting partition; in no case shall the said pipes be let into the beams more than two inches in depth. (*Ib.*, sec. 94; corresponds M. C., sec. 172.)

Sec. 135. **Stairways in mercantile and manufacturing buildings.**—Every building two stories or more in height occupied for mercantile or manufacturing purposes shall be provided with at least one stairway, not less than three feet in width and extending from the ground floor to the top of the building, in buildings in which fifty or more persons are em-

ployed above the second story at least two stairways shall be provided, said stairways to be inclosed in partitions plastered on metal lath, or a single stairway may be provided, said stairway to be inclosed in a fireproof shaft. The openings into the shaft to be equipped with standard fire doors as provided in this article. In buildings in which more than one hundred persons are employed above the first story, the stairway or stairways shall be of sufficient width, but in no case less than three feet wide, and said stairways shall be inclosed in brick or concrete shafts, all openings into said shafts being provided with standard fire doors, as provided in this article. Every building exceeding three stories in height, hereafter used for mercantile or manufacturing purposes, and occupied by more than two tenants above the first story, shall have all stairways inclosed with walls or partitions of approved fireproof materials. Every basement room used as a salesroom, or as a work room, in which twenty or more persons shall be employed, shall have stairs leading directly to the outside of the building, and such stairs shall be so located, and be of such width as shall afford a safe and adequate means of exit from such basement. Any building hereafter converted to uses bringing it within the provisions of this section as to stairways shall be altered so as to comply with this section, as provided for new buildings. And it shall be unlawful in any such building to obstruct the stairs, passages, or landings with materials of any kind or to place any inflammable or combustible materials in the stair halls, passages or shafts. (*Ib.*, sec. 95; compare M. C., sec. 148.)

Sec. 136. Stairways for hospitals, asylums, schools, halls and assembly rooms.—Stairways for hospitals, asylums, schools, public halls, and places of assembly, hereafter erected or altered, shall not be less than three feet eight inches wide, and shall have no winding steps. They shall have treads not less than ten inches wide, and shall not have risers of more than eight inches in height. Every building, such as is mentioned in this section, hereafter erected or altered, shall have at least two stairways leading from the ground to the top story, and shall further have such a number of stairways that the entrance to no room or apartment in such building shall be more than one hundred feet from a stairway. (*Ib.*, sec. 96; compare M. C., sec. 149.)

Sec. 137. Stairways in hotels, lodging and tenement houses—scuttles, bulkheads and ladders.—Every hotel, public boarding or lodging house and every office building, hereafter erected, having more than ten rooms above the first story, or having more than five rooms above the second story, when not a building of the first-class, shall have at least two stairways leading from the ground to the upper story, and every such stairway shall have the soffit plastered or covered with approved non-inflammable materials. And such buildings shall further have such a number of stairways and so located that the entrance to every room in such building shall not be more than one hundred feet from a stairway. When such building shall have more than ten rooms above the second story, then all stair partitions shall be of approved fireproof materials, and the stair soffits shall be covered with metallic lathing and plastered, or covered with other approved fireproof materials. Every building not of the first-class used as a lodging or tenement house or dwelling where the lower story is occupied as a store or stores, or for any business, other than the office of such hotel or lodging house, shall have the stairways leading to the basement and to the second story inclosed with approved fireproof partitions, and the stair soffits covered with metallic lathing and plastered, or covering with other approved fireproof materials. Every hotel, public boarding

or lodging house, and every office building, when not a building of the first-class, shall have metal covered scuttles or bulkheads leading to the roof, with ladders or stairs leading thereto, and accessible to all tenants, and in readiness for use at all times. The scuttle or bulkhead door shall not be locked, but may be fastened with hooks on the inside. (*Ib.*, secs. 97, 174.)

Sec. 138. **Fire escapes.**—It shall be the duty of the owner, proprietor, lessee or keeper of every hotel, boarding and lodging house, tenement house, school house, opera house, theater, music hall, factory, office building and every building where people congregate, or which is used as a business place, or for public or private assemblage, which has a height of three or more stories, to provide said structure with stair fire escapes, attached to the exterior of the building and with staircases located in the interior of the building. The fire escapes shall commence at the sill of the second story window and run three feet above the upper window sill of the upper story, with an iron ladder from the upper story to the roof. The fire escape shall extend downward from said second story by means of a stationary or drop stairway to within at least nine feet of the ground, pavement or sidewalk. School buildings, opera houses, theaters and church buildings, also hospitals, blind and lunatic asylums and seminaries shall each have a stair fire escape. All factories, stores and all places wherein twenty or more women or girls are employed or congregated above the second story thereof, shall have a stair fire escape with a drop stair to reach from the lower landing to the ground, of such construction as shall be required by the Commissioner of Public Buildings.

All fire escapes shall have proper and safe balconies for each story thereof surrounded on the sides with pipe railings not less than three feet in height, and inclosed below such railing with heavy wire netting or other substantial enclosure. Stairways shall not be steeper than an angle of fifty-five degrees, and shall be placed on a blank wall where practicable. Stairways and landings shall have railings as required for balconies. All fire escapes shall be so located as to afford the greatest security to the occupants of the buildings and there shall be suitable openings in every story of such buildings so arranged as to offer free and unobstructed access to the fire escapes. The location of every fire escape shall be designated by a sign with letters not less than three inches in length and located adjacent to such escapes on each floor of said building above the first. The location of fire escapes to be attached to any building shall be determined by the Commissioner of Public Buildings. And he shall have authority to suspend the requirements for fire escapes in the case of any public or private school, where, in his judgment, such outside fire escape would be a dangerous exit for children. Provided, however, that all buildings of non-fireproof construction three or more stories in height used for manufacturing or mercantile purposes, hotels, dormitories, schools, seminaries, hospitals or asylums shall have not less than one fire escape for every fifty persons for whom working, sleeping or living accommodations are provided above the second story; and all public halls which provide seating room above the first story shall have such a number of fire escapes as shall not be less than one fire escape for every one hundred persons calculated on the seating capacity of the hall, unless a different number is authorized in writing by the Commissioner of Public Buildings.

Whenever a fire escape attached to any building shall be found to be in an unsafe condition it shall be the duty of the owner, lessee, proprietor or keeper of said building to forthwith rebuild or repair the same or replace the same in a safe condition, subject to the penalties of this article. (*Ib.*, sec. 98; compare M. C., secs. 191, 192.)

Sec. 139. Stand pipes.—Every building of more than four stories in height shall have in connection with every fire escape on such building, a wrought iron stand pipe three inches in diameter with a Siamese hose connection at bottom and a hose connection and valve at every story and at the roof; all the connections for hose shall be of the standard size and thread in use by the St. Louis Fire Department: Provided, however, that this section shall be held not to apply to theaters and other buildings in which stand pipes have been placed by direction of the Commissioner of Public Buildings or his predecessors in office. (*Ib.*, sec. 99.)

Sec. 140. Duty of occupants of buildings to keep stairways and fire escapes free from obstructions — penalty for violation.—It shall be the duty of every manager or occupant or tenant or lessee of every building required by this ordinance to have fire escapes or to have stairways as provided in sections 135, 136, 137 and 138 of this article, to keep such stairways and fire escapes and the landings and passages thereto at all times free from obstructions of all kinds, and it shall be unlawful to place any obstruction on any such stairway or fire escape, or its landing and passages, or to place therein any inflammable material of any kind, or to cause or permit any such obstructions or materials to be placed as aforesaid. Any person, firm or corporation who shall violate any provision of this article shall be deemed guilty of a misdemeanor, and, upon conviction, shall, except in such cases where other penalties are provided, be fined not less than five dollars, nor more than five hundred dollars. (*Ib.*, sec. 100.)

Sec. 141. Fire-proof doors and shutters.—Every building more than three stories in height, above the basement, occupied for manufacturing or mercantile purposes, shall have fire doors, blinds or shutters hung to iron hinge eyes or pin blocks built into the wall on every window and every opening above the first story thereof, excepting on openings of buildings fronting on streets or vacant lots which are more than forty feet in width; said doors, blinds or shutters shall be standard; constructed of pine or other soft wood of two thicknesses of matched boards at right angles with each other and securely fastened and covered with tin or galvanized iron on both sides and edges, with folding lapped joints; the nails for fastening the same shall be driven inside the lap. The hinges and bolts or latches shall be secured or fastened to the door or shutter by bolting after the same has been covered, and such door or shutter shall be hung independent of the woodwork of the windows and doors and be of sufficient area to lap two inches all around such opening. Sliding shutters of the above construction may be used instead of hinged shutters, of such mechanism as may be approved by the Commissioner of Public Buildings. They shall in any case comply with all requirements provided for standard hinged fire shutters. In lieu of standard fire doors and shutters wherever mentioned in this article, approved metal frames of adequate strength, with wire glass panels in same, may be used. It shall be the duty of the Commissioner of Public Buildings to require fire doors, blinds or shutters, as provided in this section, to be placed on the openings of buildings in cases where lots which were vacant when the buildings were constructed are built upon, so that said openings become within forty feet from any building. (*Ib.*, sec. 101; compare M. C., sec. 193.)

[Above sec. amended after passage of Rev. C. by ord. 23181, appr. Aug. 19, 1907.]

Sec. 142. Shutters to be opened from outside.—All shutters above the first story of any building shall be so arranged that they can be readily

opened from the outside by firemen. All rolling iron or steel shutters hereafter placed on the first story of any building shall be counterbalanced, so that said rolling shutters may be readily opened by the firemen. (*Ib.*, sec. 102; corresponds M. C., sec. 194.)

Sec. 143. Inside fire doors.—Where openings in interior brick walls are required to be fitted with fire doors to prevent the spread of fire between buildings, or parts of any buildings, the said fire doors shall be made of wood covered with tin or galvanized iron, as described for standard fire doors and shutters. (Section 141, this article.) (*Ib.*, sec. 103; corresponds M. C., sec. 196.)

Sec. 144. Doors and shutters to be closed at night.—Occupants of all buildings provided with fire doors and shutters shall close the said fire doors and shutters at the close of business each day. (*Ib.*, sec. 104; corresponds M. C., sec. 195.)

Sec. 145. Sewer connections.—In all buildings now erected, or hereafter to be erected in the City of St. Louis, used or intended to be used for mercantile or manufacturing purposes, and located where a sewer connection can be made, there shall be in the basement or cellar a sewer connection, which can be opened immediately for the purpose of drainage in case the building or any of the floors or basement or cellar thereof shall be flooded from any cause, and the location of such sewer connection shall be indicated by a permanent and conspicuous sign near the ceiling or on the wall near the same, and such sign shall never be hidden or obstructed, but shall always be in plain, open view. (*Ib.*, sec. 105; corresponds M. C., sec. 179.)

See as to sewer connections Rev. C., secs. 898, 1798, 2314.

Sec. 146. Fire places, chimneys and flues.—All fire places, flues and chimneys in any building hereafter built, and all chimneys or flues hereafter altered or repaired, without reference to the purposes for which they may be used, whether for gas or other fuel, shall have the points struck smooth on the inside. The brick walls inclosing all chimney shafts used for furnaces, heating boilers, bakers' ovens, large cooking ranges and heating furnaces, and all flues used for similar purposes, shall be at least nine inches in thickness; or there shall be a cast iron or fire clay pipe built inside of the flue, in which case the brick work surrounding such pipes may be four inches in thickness. All chimneys containing ordinary flues shall be built to a height of at least four feet above the roof covering. All smoke flues of smelting furnaces, or of steam boilers or other apparatus, which heat the flues to a high temperature, shall be built with double walls, with an air space between them, the inside four inches to be of fire brick or fire clay slabs or blocks laid in fire clay mortar to a height of twenty-five feet from the bottom. Smoke stacks built entirely of steel, cast or wrought iron, may be erected for any of the above uses, provided they are effectually inclosed in masonry or fireproof shafts, in such a manner as to render the building safe against damage by fire. (*Ib.*, sec. 106; corresponds M. C., sec. 180.)

Sec. 147. Chimneys and flues to be built how.—All chimneys and flues in buildings of the fourth-class, or detached from the brick walls of buildings of the second or third class, shall be built of brick with surrounding walls not less than nine inches thick, unless there be flue linings as before specified in section 146 in which case such chimneys and flues may be built with four-inch walls. (*Ib.*, sec. 107.)

Sec. 148. Supports for chimneys—unsafe chimneys.—No chimney shall be supported or built upon any floor or beam of wood. In no case shall a chimney be corbeled out more than nine inches from the wall, and in all cases the corbeling shall consist of at least five courses of brick or stone corbeling of equal height. Where chimneys are supported by piers, the piers shall start from the foundation on the same line with the chimney breast, and shall not be less than thirteen inches on the face and properly bonded into the wall. No chimney shall be cut off below, in whole or in part, and supported by wood, but shall be wholly supported by stone, brick or iron. All chimneys which shall be dangerous, in any manner whatever, shall be repaired and made safe, or taken down. (*Ib.*, sec. 108; corresponds M. C., sec. 181.)

Sec. 149. Fire places, hearths.—All fire places, whether for gas or other fuel, shall have fire backs and jambs of brick work not less than nine inches in thickness, and shall have hearths not less than twenty inches wide from the face of the breast, and extending the full length of the chimney breast, laid upon trimmer arches of brick, stone, tile or concrete, turned in such a manner as to be self-supporting. The centering must be removed upon completion of the arch and before plastering, and no wooden centering or support shall be allowed to remain below and in contact with any trimmer arch or hearth. (*Ib.*, sec. 109.)

Sec. 150. Installing of boilers, furnaces and ovens.—No steam boiler or heating boiler, or heating furnace, or smelting furnace or forge or baking oven or roasting oven or like apparatus, whereby the danger from fire is increased, shall hereafter be installed or erected or used in any building; nor shall any such stove, range, oven or heating apparatus, as is mentioned in section 151 of this article, be installed, or erected, or used, until a permit so to do from the Commissioner of Public Buildings has been issued and the fees required by section 54 have been paid. Provided that ordinary cooking and heating stoves in dwellings or other buildings wherein not more than fifty persons are lodged or assembled or employed, may be installed and used without such permission from the Commissioner of Public Buildings. All such apparatus shall be so installed as to conform to all the requirements of this article, and it is hereby made the duty of the owner, manager, lessee, tenant, or agent of every building to comply with the requirements of this article in the erection and installation of such boilers, furnaces, ovens, ranges, and like apparatus. In all buildings, the floors under and around all boilers, hot water heaters, heating furnaces, ovens, coffee roasters, or other apparatus, in which fires are maintained, shall be non-combustible or protected by a covering of brick or concrete not less than four inches in thickness, and extending not less than ten feet in front, and at least four feet on all other sides. On top of this fireproof covering shall be placed a ventilated hollow brick or tile foundation, upon which shall be set such low pressure boilers, hot water heaters, heating furnace, oven, coffee roaster or other structures in which fires are maintained. The space between the sides of any low pressure boiler, hot water heater, heating furnace, oven, stove or other apparatus in which fires are maintained, and any woodwork or wooden construction shall not be less than five feet, unless all such woodwork be protected by metal shields, or other fireproof materials; and then such space shall not be less than eighteen inches, and no woodwork shall be within eight feet of any furnace door of such apparatus unless similarly protected. The space between any such apparatus and any wooden ceiling or wooden ceiling beam shall not be less than five feet, unless such woodwork be protected by metal shields or other fireproof materials extending

at least eighteen inches in all directions beyond the sides of such apparatus; and if the space between such ceiling and such apparatus be less than two feet, then such shield or protection shall be double and be separated by metal furrings with an air space of at least two inches between such coverings, but in no case shall it be permissible for any such apparatus to be nearer to any wooden ceiling or wooden ceiling beam than one foot. No steam boiler, or heating boiler, or heating furnace, or forge, or apparatus, whereby the danger from fire is increased, shall hereafter be used in any building until the same has been examined and approved by the Commissioner of Public Buildings, who shall then issue a permit for the use of such apparatus, and his certificate that it conforms to the requirements of this article, upon the payment of the fees required in sections 54 and 55 of this article. (*Ib.*, sec. 110; compare M. C., sec. 187.)

Sec. 151. Stoves, ranges and ash boxes.—Where stoves or ranges are set upon combustible floors, except in dwelling houses as mentioned in section 152, they shall be so set as to leave an air space of not less than four inches between them and the floor, and the floor shall be protected by sheet metal extending three feet in front and one foot on all other sides. The space between the sides of any such stoves or ranges and any woodwork or wooden construction shall not be less than four feet unless all such woodwork be protected by metal shields or other fireproof material; and then such space shall not be less than eighteen inches. Metal or non-combustible ash boxes, raised off the floor, must be provided where ashes are kept in a building. No stove, range, oven or heating apparatus shall be used in any hotel, theater, hospital, school, hall or other building in which more than fifty persons are lodged or assembled or employed until the same shall be examined and approved by the Commissioner of Public Buildings, who shall then issue a permit for the use of such stove, oven or heating apparatus and his certificate that it conforms to the requirements of this article, upon the payment of the fee required in section 54 of this article. (*Ib.*, sec. 111; compare M. C., sec. 189.)

Sec. 152. Setting of stoves and ranges.—Every stove or range or other apparatus in which fires are maintained, excepting such as are provided for in sections 150 and 151 of this article, when set upon combustible floors, shall have the floors under them protected with sheet metal extending two feet in front of and one foot on all other sides of same. The space between the sides of any such stoves or ranges and any woodwork or wooden construction shall not be less than three feet, unless all such woodwork be protected by metal shields or other fireproof materials; and then such space shall not be less than eighteen inches. It shall be the duty of every owner of every such stove or range, as is mentioned in this section, to cause the same to conform in every particular with the requirements of this section. (*Ib.*, sec. 112.)

Sec. 153. Smoke pipes, hot air pipes and registers and steam pipes.—No smoke pipe shall extend through any external wall unless connected with a flue, chimney, or stack, built as required by this article. No smoke pipe shall pass through any window, door, floor, roof or partition constructed of combustible materials, unless there be a space of at least eighteen inches between such smoke pipe and such combustible material; or such smoke pipe may be surrounded by a double metal thimble of sufficient length to extend completely through such window, door, floor, roof or partition and having a ventilated air space of not less than four inches around the pipe, but such air space shall not be less than one-third the

diameter of the pipe. No smoke pipe shall be placed nearer than eighteen inches to any combustible material, unless such combustible material be protected by a coating of plaster on metal lath, or by a metal shield two inches distant from such combustible material, in which case the smoke pipe shall not be placed nearer than nine inches to such combustible material. No smoke pipe having a greater diameter than nine inches shall be placed nearer than twice its diameter to any combustible material, unless such material be protected as aforesaid, and when so protected shall not be placed nearer thereto than three-fourths of its diameter, unless by written permission of the Commissioner of Public Buildings. All smoke pipes shall be put together with rivets, bolts or approved lock joints, and must be maintained in good order. All pipes for the distribution of hot air shall be of metal or non-combustible material, and when vertical pipes are inclosed in partitions or any covering of combustible materials, such pipes shall be double, with an air space of at least one-half inch between the inner and outer pipes and between the outer pipe and any woodwork or combustible material; or, if such pipes are single, then they shall be covered with asbestos paper of not less than two-ply in thickness, or with other approved material of equal non-conducting and non-combustible quality, and be kept at least two inches away from all woodwork or combustible material unless such woodwork be tinned, and then they shall be kept not less than one inch away from such woodwork or combustible materials. Horizontal hot air pipes shall be kept at least six inches away from all woodwork or combustible material, unless the same be protected by metal shields or by plaster, and then they shall not be nearer than two inches to such woodwork or combustible materials, and where such horizontal pipes are concealed or surrounded by woodwork or other combustible material, in the same manner as is herein required for vertical pipes. All hot air registers when placed in a floor next above a furnace or other heater shall be set in approved non-combustible borders not less than two inches in width, and shall have an air space of at least two inches on all sides and bottom of register box. All register boxes shall have a separation from all woodwork or combustible material, equal to that herein required for concealed hot air pipes. No wooden lathing shall be placed in front of or over any hot air pipe. No steam pipe or steam return pipe or hot water pipe shall be placed nearer than one inch to any woodwork or combustible material, unless the same be protected by metal shields, and then they shall not be placed nearer thereto than one-half inch. (*Ib.*, sec. 113; compare M. C., sec. 188.)

Sec. 154. Penalty.—It shall be the duty of the owner or user of every apparatus of the kinds described in sections 150, 151, 152 and 153 of this article, to cause the same and its appurtenances to be kept in a condition to comply with all of the provisions of this article relating thereto. Every person who shall maintain, or use, or cause to be maintained or used, any such apparatus as is described in sections 150, 151, 152 and 153, in violation of this article, or who shall maintain or use any such apparatus in a condition to endanger life or property, shall, upon conviction, be deemed guilty of a misdemeanor and fined not less than five dollars nor more than five hundred dollars for each offense. (*Ib.*, sec. 114.)

Sec. 155. Boiler rooms, coal or fuel rooms.—All high pressure steam boilers, hereafter to be placed in any building (except when in separate brick boiler house), shall be placed in a fireproof room, the walls of which shall be constructed of brick, stone or concrete, of not less than thirteen inches in thickness, and all openings into such fireproof room shall be

provided with standard fire-proof doors. The ceiling or floor over all such boiler rooms and the ceiling or floor over all such coal or fuel rooms in such buildings, shall be constructed of concrete or masonry, supported upon iron or steel beams or masonry arches. Every boiler room when below ground, or when under any sidewalk, shall have stationary iron ladders or stairs leading directly to a man-hole or other opening to the outside, or other adequate means of exit, which shall be approved by the Commissioner of Public Buildings. (*Ib.*, sec. 115; compare M. C., sec. 183.)

Sec. 156. **Boiler houses.**—All buildings hereafter to be erected for boiler houses, unless entirely of fireproof construction, shall have walls of either brick or stone of thickness as required by sections 86 and 96 of this article, and shall be so constructed that a clear space of at least eight feet shall exist between any part of the boiler and the roof, ceiling, or other woodwork. (*Ib.*, sec. 116; compare M. C., sec. 184.)

Sec. 157. **Cupola chimneys.**—Cupola furnaces for foundries shall have chimneys extending at least ten feet above the highest point of any roof within a radius of forty feet of such cupola, and shall be provided with an approved spark arrester. (*Ib.*, sec. 17; compare M. C., sec. 186.)

Sec. 158. **Height of smoke stacks and chimneys.**—The tops of all smoke stacks and chimneys, hereafter erected, shall be carried above the roofs of surrounding buildings so as to protect them from smoke, gases and fumes; and they shall have approved spark arresters when necessary to prevent the escape of sparks. The heights of such smoke stacks and chimneys shall not be less than here given, to-wit: Smoke stacks and chimneys having a sectional area of one hundred square inches or less shall extend at least four feet above the top of every building within twenty feet thereof; smoke stacks and chimneys having a sectional area of more than one hundred square inches and less than three hundred and eighty square inches, shall extend at least eight feet above the top of every building within one hundred feet thereof; smoke stacks and chimneys having a sectional area of more than three hundred and eighty square inches, shall extend at least twelve feet above the top of every building within two hundred feet thereof. (*Ib.*, sec. 118; compare M. C., 185.)

Sec. 159. **Building Commissioner may enter premises and raise smoke stacks and chimneys.**—The Commissioner of Public Buildings is hereby authorized to enter upon any premises whereon any smoke stack or chimney, erected prior to the passage of this ordinance, shall be maintained of a less height than provided in the preceding section, and raise such smoke stack or chimney to a height to conform to the requirements of section 158. It shall be the duty of every owner or occupant of every such premises to permit said Commissioner to enter upon such premises for the purposes aforesaid. (*Ib.*, sec. 119.)

Sec. 160. **Penalty.**—Every person who shall maintain or use any smoke stack or chimney erected after the passage of this ordinance, in violation of the provisions of section 158, or any person who shall refuse to admit the Commissioner of Public Buildings or his agents to any premises for the purpose of raising any smoke stack or chimney maintained thereon, as provided in section 159 hereof, shall, upon conviction, be deemed guilty of a misdemeanor and be fined not less than five dollars nor more than five hundred dollars for each offense, and every day whereon such violation shall exist or such admission be refused the Commissioner of Public Buildings, shall constitute a separate offense. (*Ib.*, sec. 120.)

Sec. 161. Gas, when turned on, to be kept burning.—No person shall in any building in this city turn on the gas, or cause or suffer the same to be turned on, or escape from the gas pipe in such building, unless such gas be lighted at once, and kept burning until properly turned off. (*Ib.*, sec. 121; corresponds to M. C., sec. 63.)

Sec. 162. Gas Fixtures.—All gas lights shall be placed at least three feet below any ceiling or exposed woodwork, unless the same be properly protected by a metal shield suspended at least one inch below ceiling or woodwork, in which cases the distance shall not be less than eighteen inches, and all gas fixtures or devices for the use of gas shall be so located and protected that the use thereof cannot ignite any combustible materials. Every bed room in every lodging house, hereafter erected, in which there are gas fixtures or devices, or outlets for the attachment of such gas fixtures or devices, shall have ventilating openings at or near the ceiling, which opening shall have an unobstructed area of not less than one hundred square inches, and such greater area as shall be determined by the Commissioner of Public Buildings. These ventilating openings shall open into the public corridors of such house; and it shall be the duty of every keeper or proprietor of every public lodging house to see that the ventilating openings required by this section are kept open and unobstructed. All buildings hereafter altered, or converted to be used as lodging houses, shall be made to conform to the requirements of this section. It shall be the duty of the owner or keeper or proprietor of every lodging house now in the City of St. Louis to cause such lodging house to conform to the requirements of this section within six months after the passage of this ordinance. (*Ib.*, sec. 122; compare M. C., sec. 203.)

Sec. 163. Gas pipes and fixtures to be kept in order—upon whom duty rests.—It shall be the duty of the owner or lessee of every building wherein gas pipes are installed, to maintain such pipes in a state of good repair and keep them tight, and to immediately repair or make tight any defective or leaking gas pipes upon notice from the Commissioner of Public Buildings. It shall be the duty of every occupant of a building who uses gas, whether he be owner, lessee or tenant, to maintain all gas fixtures, gas stoves, gas heaters or other devices for the use of gas, in a state of good repair and keep them tight; and to immediately repair or make tight any defective or leaking fixture or device upon notice from the Commissioner of Public Buildings. It shall be the duty of every company or person supplying gas to any building when notified by the Commissioner of Public Buildings of any leaking or defective gas pipe or gas fixture or device in any building, to immediately shut off the gas supply to such building, and not to turn on or supply gas again to such building until such defective gas pipe or fixture shall have been repaired and made tight. (*Ib.*, sec. 123; compare M. C., 203.)

Sec. 164. Hatchways or well holes to be barred or inclosed.—Every hoistway, hatchway, stairway, or well hole in every building, shall hereafter be securely guarded by means of proper gates, railings or guards, or other inclosures, which may be approved by the Commissioner of Public Buildings. Such guards or railings shall not be less than three feet in height nor more than one foot above the floor, and shall be so constructed as to effectually prevent persons from falling into such hoistways, hatchways, stairways, or well holes. The owners, lessees, or occupants of any building in the City of St. Louis, in which hatchways or well holes exist, or shall hereafter be constructed, shall cause the same to be effectually

barred or inclosed, as provided in sections 167, 168, 169 and 170 of this article, for the prevention of accidents therefrom. (*Ib.*, sec. 124; see M. C., secs. 42, 197.)

Sec. 165. **Same—notice.**—It shall be the duty of the Commissioner of Public Buildings to notify such persons mentioned in the preceding section who have hatchways or well holes in their buildings, to have the same properly guarded or inclosed. (*Ib.*, sec. 125; compare M. C., secs. 43, 198.)

Sec. 166. **Same—penalty.**—If any person mentioned in section 164 shall fail, neglect or refuse to comply with notice aforesaid for the period of thirty days after same is given, as provided in section 165, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars, nor more than five hundred dollars for each offense. (*Ib.*, sec. 165; compare M. C., sec. 44.)

Sec. 167. **Hatch doors for elevators or hoistways.**—In every building hereafter erected or altered to be used for manufacturing or mercantile purposes, in which there shall be hoistways, or elevators, or well holes, not inclosed in walls constructed of brick or other fireproof material and provided with fire doors, the openings thereof through and upon each floor of said buildings shall be provided with approved automatically closing metal clad hatch doors for every such hoistway, elevator, or well hole. Outside windows or openings into every elevator shaft or hoistway shall have such sign or device to indicate the existence of said shaft or hoistway as shall be approved by the Commissioner of Public Buildings. (*Ib.*, sec. 127; compare M. C., secs. 198, 199.)

Sec. 168. **Inclosure of elevators in mercantile or manufacturing buildings.**—Elevator shafts in all mercantile and manufacturing buildings, exceeding three stories in height, hereafter built or altered, to be occupied by more than two tenants above the first story, shall be inclosed with walls or partitions of approved fireproof material, and have automatically closing metal clad doors at all openings thereto. (*Ib.*, sec. 128; compare M. C., sec. 199.)

Sec. 169. **Elevators in connection with stairways.**—In all buildings hereafter erected or altered, wherever elevators are placed in the well holes of or adjacent to stairways, such elevators and stairways shall be inclosed with partitions of approved fireproof materials. (*Ib.*, sec. 129; compare M. C., sec. 200.)

Sec. 170. **Grating and floor under machinery and top of elevator shafts.**—There shall be placed below the machinery and sheaves at the top of every elevator shaft, hereafter constructed or altered, a substantial grating or screen of iron, so constructed as to prevent persons or objects from falling into such shafts, and sufficiently open to permit flames and smoke to pass through to the skylight or windows provided in section 172. If such shaft be floored over with a solid flooring, such flooring shall not cover more than one-half of the area of such shaft, and at least one-half of the area of such shaft shall be covered with an approved open grating. (*Ib.*, sec. 130; compare M. C., sec. 201.)

Sec. 171. **Dumb waiters.**—Dumb waiter shafts, except in dwellings, shall be constructed of approved non-combustible materials, and there shall be approved metal clad doors at all openings thereto. (*Ib.*, sec. 131; compare M. C., sec. 202.)

Sec. 172. Skylights over elevators, etc.—In all buildings hereafter erected or altered, the roof immediately over every hoistway, elevator, open shaft or well hole, shall be provided with a skylight containing not less than twenty-five square feet of glass; said glass shall be set in metal sashes or frames, in lights of not less than two hundred square inches each, and shall not exceed one-eighth inch in thickness. There shall be suspended immediately below this glass a strong wire netting. Provided, that if in the sides of an elevator pent house, or at the top of any such shaft or well hole, there be windows having thirty-five square feet of glass of the thickness herein specified for skylights, then the Commissioner of Public Buildings may, at his discretion, permit the skylights above described to be omitted. (*Ib.*, sec. 132; compare M. C., sec. 175.)

Sec. 173. Strength of floors and roofs—definition of live and dead loads.—The minimum live loads which the floors of buildings shall be capable of supporting, when uniformly loaded over their entire surface, shall be: For stores, factories, commercial buildings and ware houses, one hundred and fifty pounds per square foot; for office buildings, on all floors above the first, seventy pounds per square foot; for office buildings on the first floor, one hundred and fifty pounds per square foot; for places of public assembly, including schools, one hundred pounds per square foot; for dwellings, lodging and tenement houses, sixty pounds per square foot. For all flat roofs, forty pounds per square foot. When the purpose for which any building shall be used subjects its floors to greater loads than those given above, then such building shall be so constructed as to safely support such loads, with the factor of safety prescribed in this article for the materials of its construction. Live loads are here taken to mean loads that are movable and transient, and that are not a part of the building, as distinguished from dead loads, which are here taken to mean the fixed and component parts of the building. (*Ib.*, sec. 133; compare M. C., sec. 158.)

Sec. 174. Load on floors to be safely distributed.—The weights placed on any floor in any building shall be safely distributed thereon. The Commissioner of Public Buildings may require the owner or occupant of any building, or portion thereof, to redistribute the load on any floor or to lighten such load where he may deem the same to be necessary for the protection of life and property. No person shall place, or cause or permit to be placed, on any floor of any building any greater load than the safe load thereof, to be estimated and ascertained as provided in section 175 of this article. (*Ib.*, sec. 134; compare M. C., sec. 159.)

Sec. 175. Strength of floors to be computed—Commissioner may enter premises and revise computation.—In all manufacturing or commercial buildings, where heavy materials are kept or stored or where heavy machinery is operated, it shall be the duty of the owner or occupant of such building within ninety days of the passage of this ordinance to have the strength of the floors of such building, and their supports, computed by some competent person to be employed by the owner or occupant, to estimate the weights which may be safely sustained per square foot of floor in such building, and to reduce such estimate to writing, stating the materials, sizes, distance apart and span of beams and girders, posts or columns supporting each floor in such building, and the correctness of such estimate shall be sworn to by the person making the same, and it shall thereupon be filed in the office of the Commissioner of Public Buildings. But if the Commissioner of Public Buildings shall have cause to

doubt the correctness of said estimates he is empowered to revise and correct the same, and for the purpose of such revision the officers and employes of said building department may enter any building and clear so much of any floor or portion thereof as may be required to make necessary measurements and examinations. (*Ib.*, sec. 135; compare M. C., secs. 160, 161.)

Sec. 176. Approval—notice to be posted on each floor.—

When the correct estimate of the weight that the floor in any manufacturing or commercial building will safely sustain has been ascertained, as provided in section 175 of this article, the Commissioner of Public Buildings shall approve the same, and thereupon the owner or occupant of said building, or any portion thereof, shall post a copy of such approved estimate in a conspicuous place on each story of the building to which it relates. Before any building shall, after ninety days from the passage of this ordinance, be used and occupied, in whole or in part, for any of the purposes aforesaid, the weight that each floor will safely sustain upon each superficial foot thereof shall be ascertained and posted as hereinbefore specified. (*Ib.*, sec. 136; compare M. C., sec. 163.)

Sec. 177. Columns.—All columns in building required by this article to be buildings of the first-class, or columns supporting brick walls in buildings more than four stories in height, shall be of iron or steel and made fireproof by a covering of not less than three inches in thickness of approved fire-resisting materials. No column of cast iron shall have a less thickness of shell than three-quarters of an inch nor have a length exceeding twenty-five times its least diameter. No column of wrought iron or steel shall have a less thickness of metal than one-quarter inch. No column of wood shall have a greater length than forty times its least diameter; nor shall any column of wood be permissible in the cellar or basement of any lodging house, tenement house, or office building of more than three stories in height; nor shall any column of wood in any building of more than three stories in height, stand upon any bolster or girder of wood, but all such columns shall stand upon metal caps or plates of sufficient size to receive the columns and their loads. (*Ib.*, sec. 137.)

Sec. 178. Loads on columns.—Every column shall have a calculated capacity to support in addition to the dead loads imposed thereon, the live loads for which dependent floors are calculated (see section 173), in not less than the following proportions: For the floor immediately above every column, its full live load; for the floor second above, ninety-five per cent of its live load; for the floor third above, ninety per cent of its live load; for the floor fourth above, eighty-five per cent of its live load; and for each succeeding floor above, a proportion diminished by not more than five per cent, but in no case shall the live load of a floor be taken at less than forty per cent of its calculated amount; and the required supporting capacities so determined shall be the minimum permissible for the factors of safety and allowable stresses given in section 181. (*Ib.*, sec. 138; compare M. C., sec. 225.)

Sec. 179. Loads on girders.—Every girder shall have a calculated capacity to support, in addition to the dead loads imposed thereon with the factors of safety given in section 181. (*Ib.*, sec. 139; compare M. C., 226.)

Sec. 180. Loads on beams.—Every beam shall have a calculated capacity to support the full dead and live loads imposed thereon, with the factors of safety given in section 181. (*Ib.*, sec. 140; compare M. C., sec. 227.)

Sec. 181. Factors of safety and allowable unit stresses.—The factors of safety for materials of construction shall not be less than the following: For materials subject to transverse or tensile strains: The unit stresses allowed shall not exceed the following proportions of the ultimate breaking strength, to-wit:

For steel or wrought iron.....	One-fourth
For wood	One-sixth
For cast iron.....	One-eighth

For materials subject to compression, the strains shall not exceed:

For brick work (a), three hundred pounds per square inch.

For brick work (b), two hundred and ten pounds per square inch.

For brick work (c), one hundred and twenty pounds per square inch.

(a) Strictly hard bricks laid in Portland cement mortar.

(b) Ordinary hard and red bricks laid in natural cement mortar.

(c) Merchantable bricks laid in lime mortar.

For concrete, as described in section 82, two hundred and fifty pounds per square inch.

For wooden posts with square ends, the compression in pounds per square inch shall not exceed the amounts given in the following table, for the respective ratios of length to the least diameter:

Unsupported Length Divided by the Least Diameter.		Pounds per Square Inch.	
		White Pine.	Oak or Yellow Pine.
Ten	700 pounds.	800 pounds.	
Fifteen	615 pounds.	710 pounds.	
Twenty	530 pounds.	620 pounds.	
Twenty-five	445 pounds.	530 pounds.	
Thirty	360 pounds.	440 pounds.	
Thirty-five	275 pounds.	350 pounds.	
Forty	190 pounds.	260 pounds.	

For cast iron, round or rectangular columns, with square ends, the compression in pounds per square inch shall not exceed the amounts given in the following table for the respective ratios of length to the least diameter:

Unsupported Length Divided by the Least Diameter.		Pounds per Square Inch.
Ten	8,900 pounds.	
Fifteen	7,800 pounds.	
Twenty	6,700 pounds.	
Twenty-five	5,600 pounds.	

For medium steel columns with flat ends, the compression in pounds per square inch shall not exceed the amounts given in the following table for the respective ratios of length to least radius of gyration:

Unsupported Length Divided by Least Radius of Gyration.	Pounds per Square Inch.
Forty	12,444 pounds.
Sixty	11,262 pounds.
Eighty	10,613 pounds.
One hundred	9,782 pounds.
One hundred and twenty	8,925 pounds.
One hundred and forty	8,182 pounds.
One hundred and sixty	7,306 pounds.
One hundred and eighty	6,579 pounds.
Two hundred	5,925 pounds.
Two hundred and twenty	5,332 pounds.
Two hundred and forty	4,807 pounds.

(*Ib.*, sec. 141; compare M. C., sec. 229.)

Sec. 182. **Restriction of floor areas.**—The undivided floor area permissible in buildings of three or more stories in height, shall not exceed twelve thousand square feet for buildings of the first-class; nor exceed seven thousand five hundred square feet for buildings of the second and third-class. Larger buildings shall have brick partition walls of the thickness required in section 86 of this article, so located that no undivided floor area shall exceed the figures above given. There shall be automatically closing fire doors on each side of the wall of approved construction for all openings in such partition walls, and said walls shall be carried above the roof and capped as provided in section 102 of this article. (*Ib.*, sec. 142; compare M. C., 157.)

Sec. 183. **Unrestricted floor areas.**—Buildings of the first-class, or buildings of the second-class, as provided in section 64 of this article, and having all stairways and elevators or other openings from story to story, inclosed with wall of brick or concrete, provided with approved self-closing fire doors at all openings in such walls, may be constructed without restriction as to floor areas, provided such buildings be equipped with approved automatic sprinkling devices throughout every story. (*Ib.*, sec. 143; compare M. C., secs. 158, 159.)

Sec. 184. **Unrestricted floor areas—when stairs and elevators are open.**—Buildings of the first-class or buildings of the second-class, when equipped with approved automatic sprinklers, may be built exceeding the floor areas provided in section 182 of this article, and have open stairs and elevators; provided such buildings have in addition to such open stairways and remote from any open stairway, elevator or open shaft, such a number of fireproof stairways inclosed in walls of brick or concrete, as shall not be less than one such fireproof stairway for every fifteen thousand square feet of floor area, or portion thereof, for buildings of the first-class; or one such fireproof stairway for every ten thousand square feet or portion

thereof of floor area for buildings of the second-class. Such fireproof stairways shall be so placed that they may only be entered from the open air in every story; they shall not be less than three feet eight inches wide, without winders, with handrails on both sides, and shall have treads of not less than ten inches, nor risers of more than eight inches. All doorways leading to such stairways, on all floors above the ground floor, shall open towards the stairs and shall be plainly indicated by means of conspicuous signs; doors leading from such stairways on the ground floor shall open outwardly and to the open air. (*Ib.*, sec. 144; compare M. C., secs. 157, 158.)

Sec. 185. Skeleton construction buildings.—Buildings of skeleton construction shall be buildings of the first-class, and constructed upon a steel or iron framework, so designed and constructed as to be capable of resisting all strains from the weight of the structure, its contents and the pressure of the wind, within the limits of the factors of safety and unit stresses provided in section 181 of this article. All structural members of such buildings shall be fireproofed and protected as provided in section 62 of this article. (*Ib.*, sec. 145; compare M. C., sec. 219.)

Sec. 186. Exterior walls of skeleton buildings.—Exterior walls of skeleton buildings shall not be less than eighteen inches in thickness, unless they be supported in each story height by the framework, in which case they shall not be less than thirteen inches in thickness. All exterior walls shall have at least eight inches of masonry outside of all girders supporting more than one story of the masonry, as provided in section 62, and all such walls and masonry shall be securely anchored to the columns and framework. (*Ib.*, sec. 146; compare M. C., sec. 220.)

Sec. 187. Wind pressure on skeleton buildings.—The framework of a skeleton building shall be constructed to resist a horizontal wind pressure of thirty pounds per square foot on all exposed surfaces above grade. Where there are buildings immediately adjoining, the wall surface covered by such buildings will be considered as not exposed to wind pressure. The factors of safety to be used in computing the sections required to resist wind pressure shall be such that the unit stresses provided in section 180 of this article shall not be exceeded by more than twenty per cent. (*Ib.*, sec. 147; compare M. C., sec. 228.)

Sec. 188. Construction shall conform to accepted standards.—The materials and workmanship of construction for the framework of skeleton buildings shall not be inferior in quality to the requirements of the standard specifications of the "Association of American Steel Manufacturers." (*Ib.*, sec. 148; compare M. C., sec. 230.)

Sec. 189. Hotels, boarding houses, etc.—fire escapes to be provided—red light.—It is hereby made the duty of every keeper or proprietor of every hotel, public boarding or lodging house in the city, of three stories and over in height, where such building is not a building of the first-class, to provide with and securely fasten in every lodging room in said hotel, public boarding house or lodging house above the first story, which has an outside window, and is used for the accommodation of guests or employes as a sleeping apartment, a rope or rope ladder for the escape of lodgers therein, in case of fire, of at least one inch in diameter, which shall be securely fastened within such room, and as near a window as practicable, and of sufficient length to reach therefrom to the ground, on the outside of

such hotel, public boarding or lodging house, and made of strong material; such rope or rope ladder shall be kept in good repair and condition. In lieu of a rope or rope ladder, there may be substituted any other appliance that may be deemed of equal or greater utility by the Commissioner of Public Buildings; but such appliances shall in all cases be so constructed and situated as to be under the control and management of any lodger in such room. It is hereby further made the duty of every keeper or proprietor of every hotel, public boarding or lodging house in this city, of three stories and over in height, to provide and keep in plain view at the head of each flight of stairs, and also adjacent to the opening leading to each stationary fire escape on each and every floor of said hotel, public boarding or lodging house, a lamp or light with a red glass globe surrounding the light for the purpose of designating the location of said stairway and fire escape, respectively; said lamp or light shall be kept burning from twilight in the evening until daylight in the morning of each and every day. (*Ib.*, sec. 149; compare M. C., sec. 52.)

See also as to fire-escapes *ante* R. C., sec. 138 *et seq.*

Sec. 190. Same—notice to guests.—It shall be the duty of the proprietor or proprietors, or keepers, of every hotel, public boarding or lodging house, mentioned in the preceding sections of this article, to post or cause to be posted up notices in every room of such hotel, public boarding or lodging house, calling attention to the fact that the provisions of this article have been complied with, and specifying in said notice the part of the room or building where the appliances to be used for the purpose of escaping from said buildings in case of fire are located and situated. (*Ib.*, sec. 150; corresponds to M. C., sec. 53.)

Sec. 191. Same—watchman—alarm bell.—In all hotels, public boarding or lodging houses in the city containing more than twenty rooms and being more than three stories in height, the proprietor or proprietors, manager or managers, lessee, keeper or keepers, of each and every such hotel, public boarding or lodging houses, shall constantly keep and employ at least one competent and trustworthy man as watchman upon the basement floor and upon each and every floor above the second story thereof, whose duty it shall be to keep watch and guard in such hotel, public boarding or lodging house, against fire, and to give warning in case fire should break out. Such watchman shall be on duty between the hours of nine o'clock p. m. and six o'clock a. m. of each and every day of the year, and in case of fire shall do all in his power to awaken each guest and all other persons therein, and inform them of such fire. A large alarm bell or gong shall be placed in each hotel, public boarding or lodging house, at, in or near the office, or there shall be placed and kept in good order in each room above the first story of such hotel, public boarding or lodging house, an alarm bell which may be sounded from the office, or sounded from the corridors, and it shall be the duty of the proprietor of such hotel, public boarding house or lodging house to post a conspicuous notice in every room in which such bell is placed, calling the guests' attention to the bell and that it is to be used for the purpose of alarming the guests and inmates in case of fire therein. Upon any such alarm being given, it shall be the duty of every proprietor, keeper, manager or employe to do all in his or their power to save such guests or inmates. (*Ib.*, sec. 151; corresponds M. C., sec. 54.)

Sec. 192. Same—penalty in case of watchman's neglect.—Should any such watchman leave his post or be absent from his duties during the hours mentioned in the section next preceding, or if he should sleep while

on duty, or if he should fail while on duty to do all in his power to awaken the persons sleeping in such hotel, public boarding or lodging house, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than fifty dollars. (*Ib.*, sec. 152; compare M. C., sec. 55.)

Sec. 193. **Same—penalty in case of proprietor's neglect.**—Every proprietor, keeper, lessee or manager of every hotel, public boarding house or lodging house in the City of St. Louis, who shall fail to comply with the requirements of sections 189, 190 and 191 of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof, before either of the police justices of the city, shall be fined in a sum not less than five dollars nor more than five hundred dollars. (*Ib.*, sec. 153; compare M. C., sec. 56.)

Sec. 194. **Height of rooms—windows—ventilating skylights.**—Every room in every apartment house, hotel, tenement or lodging house hereafter built, and in every building hereafter altered to be used as such, shall be not less than eight feet in height in the clear in every story, except that in the attic it may be less than eight feet high for one-half the area of the room. Every such room shall have one or more windows or ventilating skylights, with area of openings not less than one-tenth the floor area of the room, to be lighted or ventilated from or by an open air space with an area throughout at least one-fourth as great as that of the largest room opening thereon, and it shall be unlawful after the passage of this ordinance, to so construct any room in any apartment house, hotel, tenement, or lodging house, not provided with outside windows or skylights as required by this section. (*Ib.*, sec. 154.)

Sec. 195. **Theaters or buildings used for theatrical or operative purposes—regulations, duties, penalties, etc.**—Every theater or opera house, or other building now or hereafter used for theatrical or operative purposes, or for the purpose of holding public entertainments of any kind where stage scenery and apparatus are employed, and having seating accommodations for one hundred or more persons, and where such building shall have seating accommodations for spectators above the first or main floor thereof shall comply with all the requirements of sections 195, 196 and 197 of this article. All doors shall open outwardly and must be kept unfastened and unobstructed during every performance. All exits in all theaters shall have such fastenings as may be readily opened from the inside without keys, and shall be of an uniform style; and only such fastenings as shall be approved by the Commissioner of Public Buildings. All stairways shall have strong hand railings on both sides thereof, which railings shall be continuous across platforms and landings wherever possible to make them so. All exits shall be plainly indicated by plain letters not less than four inches in height, placed over every doorway or passageway leading to the outside of such building. Each exit must at all times be kept free from curtains, portieres, and other like obstructions, and be designated by a red light. Every theater shall have an exit from the stage into the street or alley, not less than four feet wide. There shall be a clear, unobstructed passageway from the stage and all dressing rooms to such exits. Every printed programme shall have thereon a plan or diagram of the building, indicating the location of all exits and passages leading to the outside of such building. All seats, excepting those contained in boxes, shall be firmly secured to the floor, and no seat shall have more than nine seats intervening between it and an aisle, and no stool or seat shall be placed in any aisle. In every such building as is mentioned in this section, the proscenium

opening shall be provided with a fireproof curtain, or a curtain of asbestos or similar fireproof material of a construction to be approved by the Commissioner of Public Buildings. It shall be the duty of said Commissioner of Public Buildings to inspect and test the construction and operation of such fireproof curtains on or about the first day of September and the first day of January of each year, and at such other intervals as shall insure their maintenance in a good and efficient condition for the safety of the audience; said curtain shall cover the entire proscenium opening, and shall extend at least twelve inches beyond the sides of the proscenium opening, and shall be operated with rings or snaps sliding on wire cables and constructed in a way to be approved by the Commissioner of Public Buildings. Said fireproof curtain shall be lowered at the close of every performance, and shall be operated from the stage floor by proper devices for that purpose. It shall be so constructed that it can be lowered from the fly floors and the stage; it shall be hung by wire cable or metal supports to be approved by the Commissioner of Public Buildings. All woodwork on the stage, fly-galleries and rigging-lofts shall be painted with fireproof paint or treated with an approved fire-resisting material so as to be effectually rendered safe against fire. The curtains about the proscenium boxes, and all draperies, portieres and curtains within the auditorium or any aisles or corridors thereof shall be chemically treated to make them less inflammable. The frame or woodwork surrounding the canvas scenery owned by the theater shall be painted with fireproof paint and the reverse or back side of such canvas scenery shall be treated with an approved fire-resisting material.

The use of scenery painted with oil is prohibited; the use of calcium lime lights is likewise prohibited, except upon the stage floor. Whenever the Commissioner of Public Buildings shall be satisfied that in any theater or operatic performance an extra hazard of fire exists by reason of the employment of vast quantities of scenery, nets, ropes, lights, etc., he shall order the scenery and lights to be rearranged in a way that such extra hazard shall not exist.

A practical water curtain shall be installed in every theater to be composed of stand pipes on each side of the proscenium arch and a lateral pipe running horizontally over the proscenium arch, so as to discharge a sheet of water back of the fireproof curtain, the same to be controlled by hand valves from either side of the stage. Said water curtain shall be made to the satisfaction of and approved by the Commissioner of Public Buildings. Proscenium walls and arches of all present theaters, if built of wood, must be lined with asbestos paper and covered with metal laths and plastered with cement plaster or covered with sheet metal to be constructed to the satisfaction of the Commissioner of Public Buildings.

All doors leading from the stage to the auditorium shall be metal clad doors. All aisles, corridors and passageways in all theaters shall be kept free from camp stools, chairs, sofas and other obstructions, and no person shall be allowed to stand or occupy any of said aisles during any performance. The word "aisle" for the purpose of this article, shall be construed to mean the openings or pathways to the seats, but shall not include the foyer in the rear of the theater nor the space directly back of the boxes of the theater.

All passages, stairways and corridors throughout all theaters shall be supplied with a supplementary lighting system of electricity, gas or sperm oil, to be approved by the Commissioner of Public Buildings, and such system shall be independent of all other lights in such buildings and shall be

in operation during the entire period such theater is open to the public, and until the audience has left the building.

All theaters shall be provided with standard fire alarm box, connected by the necessary wires with the headquarters of the city fire alarm telegraph; the same shall be in an accessible place on the stage and be designated by a red light.

The Commissioner of Public Buildings, the Chief of the Fire Department and their respective assistants shall have the right to enter any theater and any and all parts thereof at any reasonable time, especially when occupied by the public, in order to judge of and discharge their respective duties; and it shall be unlawful for any person to refuse admission to such officers or throw obstacles in the way of such officers while engaged in the performance of their duties.

It shall be the duty of the Chief of the fire department to detail an experienced fireman to be on duty at each theater during the whole time it is open to the public. It shall be the duty of said fireman to see that all fire apparatus and appliances required by this article are in their proper place, in proper condition, ready for use, all exits unlocked during the whole time such theater is open to the public, and all fire escapes in proper condition. Said fireman shall require a drill of the employes of such theater in the use of all apparatus and appliances for the prevention of fire inside of the building, except during the performance. Said drills shall be at frequent intervals until such employes become efficient, and shall thereafter be had at least once a month.

Any manager, owner, lessee or keeper of any theater who shall violate or fail to comply with the provisions of sections 195, 196 and 197 of this article, shall on conviction thereof, in addition to having his license revoked as provided in section 210, be fined in the sum of not less than five dollars nor more than five hundred dollars.

There shall be no opening in the proscenium wall above the auditorium ceiling, and where this space is not now inclosed it shall be inclosed with metal lath and plaster or other approved fireproof materials. There shall be provided over the stage, metal skylights of an area, or combined area equal to one-tenth of the area of the stage, and glazed with glass not exceeding one-eighth of an inch in thickness, and each light thereof shall measure not less than three hundred square inches; the whole of each such skylight shall be so constructed as to open instantly upon the cutting or burning of a cord to be fastened to the floor at the rear side of the stage, or the melting of a fusible link, which shall be arranged to hold such skylight closed, or some other equally simple approved device may be provided for their opening automatically in case of fire on the stage. All such skylights shall be so arranged that they may be instantly thrown open by means of a strong wire cable reaching therefrom to the stage floor or by some equally effective device which may be approved by the Commissioner of Public Buildings. All such skylights shall have securely suspended below the glass a strong wire netting constructed of wire not less than number ten gauge, and of a mesh not larger than one inch. In case where it is impracticable to construct such skylights as are herein described, it may be permissible to provide, in lieu thereof, ventilating openings in the walls above the stage, at such locations and of such size and construction as shall be approved by the Commissioner of Public Buildings, and Board of Appeals; such ventilating openings shall be arranged to open in the same manner as skylights above the stage. (*Id.*, sec. 158; compare M. C., secs. 233-241.)

Sec. 196. Stand pipes and fire apparatus.—In every such building as is mentioned in section 195 of this article, stand pipes of two and one-half inches in diameter shall be provided as follows, namely: One on each side of the stage, also one on each side of the auditorium. Hose connections for such stand pipes shall be provided on every tier and gallery level and below the stage, and at least one in the property room and one in the carpenter shop, if the same be contiguous to the building. All such stand pipes shall be kept clear from obstruction. Said stand pipes shall be separate and distinct, receiving their supply of water direct from the main, and shall be fitted with the regulation couplings of the Fire Department, and shall be kept constantly filled with water under pressure, and ready for immediate use at all times during a performance in said building. A proper and sufficient quantity of hose, fitted with regulation couplings and with nozzles attached thereto, and with hose wrench at each outlet, shall always be kept attached to each hose attachment. There shall also be kept in readiness for immediate use on the stage and each gallery at least two barrels full of water, and two buckets to each barrel. Said barrels and buckets shall be painted red. There shall also be provided such other portable fire extinguishing apparatus as may be required by the Commissioner of Public Buildings, and at least four axes and two twenty-foot hooks, two fifteen-foot hooks and also two ten-foot hooks on each tier or floor of the stage. (*Ib.*, sec. 159; compare M. C., sec. 242.)

Sec. 197. Regulations relating to lights.—In every such building as is mentioned in section 195 of this article, every portion of such building devoted to the use or accommodation of the public, also all outlets leading to the outside and including open courts and corridors, shall be well and properly lighted during each performance until the entire audience has left the premises. All gas and electric lights in the halls, corridors, lobby or any part of said building used by the audience, except the auditorium, must be controlled by a separate shut-off, located in the front portion of the building and controlled only in that particular place. Gas mains supplying the building shall have independent connections for the auditorium and stage, and provisions shall be made for shutting off the gas from the outside of the building. All interior gas lights shall be lighted by electricity or other suitable appliances. All suspended or bracket lights surrounded by glass globes or shades in the auditorium or in any part of the building devoted to the public shall be provided with proper wire netting underneath. No gas or electric light shall be inserted in the wall, woodwork, ceilings or in any part of the building, unless protected by fireproof materials. All lights in passages and corridors in said building shall be protected with proper wire network. Where gas footlights are used they shall be effectually guarded with wire network, and shall be protected with strong metal guard, not less than two feet distant from said footlights, and the trough containing said footlights shall be formed of and surrounded by fireproof material. All border, ceiling or other lights on or over the stage shall be incandescent electric. All ducts or shafts used for conducting heated air from the main chandelier or from any other light or lights shall be constructed of fireproof materials. All lights on the stage side of the proscenium wall in dressing rooms, property rooms, store rooms, and other places, other than incandescent electric lights, shall have strong metal wire guards or screens not less than ten inches in diameter, so constructed that any material in contact therewith shall be out of reach of the flames of said lights, and shall be rigidly attached to the fixtures in all cases. Wherever the word "theater" is used in sections 195, 196 and 197 hereof, it shall include all such buildings as are described or referred to in section 195. (*Ib.*, sec. 160.)

Sec. 198. **Construction of new theaters.**—Every theater or opera house, or other building intended to be used for theatrical or operatic purposes, or for public entertainments of any kind, where stage scenery and apparatus are employed, hereafter erected, shall be built to comply with the requirements of this article. No building which, at the time of the passage of this ordinance, was not in actual use for theatrical or operatic purposes, and no building hereafter erected not in conformity with the requirements of this article, and having space for the accommodation of one hundred or more persons, and having seats for the accommodation of spectators above the first or main floor thereof, shall be used for theatrical or operatic purposes or for public entertainments of any kind, where stage scenery or apparatus are employed, until the same shall have been made to conform to the requirements of this article. If any changes, alterations or improvements are made in the structural supports, or inclosures, or in any approaches to or exits from, or in the seating of any existing building to be used wholly or in part for public entertainments in connection with which stage scenery or apparatus is used, such changes, alterations or improvements shall be made in such manner as shall conform to the requirements of this article. (*Ib.*, sec. 161; compare M. C., sec. 231.)

Sec. 199. **New theaters—entrances and exits—other regulations.**—Every building such as is designated in section 198 of this article, shall have at least one front on a street or alley and in such front there shall be suitable means of entrances and exits for the audience as hereinafter provided. In addition to the aforesaid entrances and exits on the street or alley there shall be reserved for service in case of an emergency an open court or space on the side not bordering on the street or alley, where said building is located on a corner lot, and on both sides of said building where there is but one frontage on the street. The width of such open court or courts shall not be less than seven feet where the seating capacity is not over one thousand people, nor less than eight feet in width for a seating capacity above one thousand people. Said court or courts shall begin on a line with or near the proscenium wall, and shall extend the length of the auditorium proper, to or near the wall separating the same from the entrance, lobby or vestibule. A separate and distinct corridor or corridors shall continue to the street or alley from each open court, through such superstructure as may be built on the street or alley side of the auditorium, with continuous walls of brick or fireproof materials on each side. The entire length of said corridor or corridors and the ceilings and floors shall be fireproof. Said corridor or corridors shall not be reduced in width, and the said width shall be in the clear of any projection in the walls of the same. The outer openings shall be provided with doors or gates opening toward the street. During the performance, the doors or gates in the corridors shall be kept open. The said open courts or corridors shall not be used for storage purposes or for any purpose whatsoever, except for exit and entrance from and to the auditorium and stage, and must be kept clear and free during performances. The level of said corridors at the front entrance to the building shall not be greater than one step above the level of the sidewalk where they begin at the street or alley entrances. The entrance to the main front of the building shall not be on a higher level from the sidewalk than four steps. To overcome any difference of level existing between the exits from the parquet into courts and the level of the said corridors, inclined planes shall be employed where the gradients are not over one foot in ten feet; in all other cases steps shall be employed. From the auditorium opening into the said open court on the side street or alley, there shall not be less than one exit on each side, in each tier from and including the parquet, and each and every gallery.

Every exit shall be at least five feet in width in the clear. All of said doors shall open outwardly, and must be fastened as prescribed in section 195 of this article. There shall be balconies not less than four feet in width in the side court or courts at each level or tier above the parquet on each side of the auditorium, of sufficient length to embrace the exits, and from said balconies there shall be staircases extending to the ground level, with a rise of not over eight and one-half inches to a step, and not less than nine-inch tread exclusive of the nosing. The staircases from the upper balcony to the next below shall not be less than three feet in width in the clear, and from the first balcony to the ground, four feet in width in the clear, where the seating capacity of the auditorium is for one thousand people or less, and increasing in width at the rate of six inches for every increase in seating capacity of two hundred or less. All of the before mentioned balconies and staircases shall be constructed of steel or iron throughout, including the floors, and of ample strength to sustain the load to be carried by them; they shall be covered with a metal hood or awning; where one side of the building borders on the street or alley, there shall be balconies and staircases of like capacity and kind, as before mentioned, extending to the ground. When located on a corner lot, that portion of the premises bordering on the side street and not required for the use of the theater may be used for offices, stores and apartments, provided the walls separating this portion from the theater proper are carried up solidly to and through the roof, and that a fireproof exit is provided for the theater on each tier, equal to the combined exits opening on opposite sides of each tier, communicating with balconies and staircases leading to the street or alley in such manner as provided elsewhere in this section; said exit passages shall be entirely cut off by brick walls from said offices, stores or apartments, and the floors and ceilings in each tier shall be fireproof. Nothing herein contained shall prevent a roof garden, art gallery, or rooms being placed above a theater or public building, provided the floors of the same forming the roof over such theater or building shall be constructed of iron or steel and fireproof materials, and that each floor shall have no covering boards or sleepers of wood, but be of tile or cement. Every roof over said garden or rooms shall have all supports and rafters of iron or steel, and be covered with glass or fireproof material, or both. Such roof gardens, art galleries or rooms shall have exits of widths proportioned to their seating capacity as herein provided for theaters. (*Ib.*, sec. 162; compare M. C., sec. 233.)

Sec. 200. New theaters—work shops, storage and property rooms.—Hereafter no workshop, storage or general property room shall be constructed above the auditorium or stage or under the same, or in any of the fly galleries. All of said rooms or shops may be located in the rear or at the side of the stage, but in such cases they shall be separated from the stage by a brick wall, and the openings leading into said portion shall have standard fireproof doors on each side of the openings, hung to iron eyes built in the wall. No store room or rooms contained in a theater building, or the offices, stores or apartments adjoining as aforesaid, shall be let or used for carrying on any business or dealing in any articles commonly known as specially hazardous. (*Ib.*, sec. 163; compare M. C., sec. 234.)

Sec. 201. New theaters—interior fire walls.—Interior walls built of fireproof material shall separate the auditorium from the entrance vestibule, and from any room or rooms over the same; also from any lobbies, corridors, refreshment or other rooms. The openings in walls to all staircases shall be the full width of said staircases. (*Ib.*, sec. 164; corresponds M. C., sec. 235.)

Sec. 202. **New theaters—proscenium wall and openings.**—A fire wall built of brick, and of the thickness as provided in this article for walls of buildings of the first-class, shall separate the auditorium from the stage, and the same shall extend at least four feet above the stage roof or the auditorium roof, if the latter be the higher, and shall be coped. Above the proscenium opening there shall be an iron girder covered with fireproof material. Should there be constructed an orchestra over the stage above the proscenium the said orchestra shall be placed on the auditorium side of the wall. (*Ib.*, sec. 165; corresponds M. C., sec. 236.)

Sec. 203. **New theaters—interior construction.**—The moulded frame around the proscenium opening shall be formed entirely of fireproof material. If metal be used, the metal shall be filled in solid with non-combustible material and securely anchored to the wall. The proscenium opening shall be provided with a fireproof asbestos curtain as is provided in section 195. The proscenium curtains shall be placed at least three feet distant from the footlights at the nearest point. All doorways or openings through the proscenium wall from the auditorium, in every tier, shall have standard fire doors on each face of the wall, and the doors hung so as to be opened from either side at all times. There shall be no openings in the proscenium fire walls above the level of the auditorium ceiling. Direct access to these doors shall be provided on both sides, and the same shall always be kept free from incumbrance. Iron ladders securely fixed to the wall, on the stage side, shall be provided to overcome any difference of level existing between the floor or galleries on the stage side of the fire wall and those of the side of the auditorium. There shall be over the stage metal skylights, as provided in section 195. All that portion of the stage not comprised in the working of scenery, traps or other mechanical apparatus for the presentation of the scene, usually equal to the width of the proscenium opening, shall be built of iron or steel beams, filled in between with fireproof materials, and all girders for the support of said beams shall be of wrought iron or rolled steel. The fly galleries entire, including floor and pin rails, shall be constructed of incombustible material, and no wooden boards or sleepers shall be used as a covering over beams, but the floor shall be entirely fireproof, the rigging-loft shall be constructed of incombustible material, including the floor covering the same. All woodwork on and above the stage and stage scenery shall be treated to become fire-resisting as prescribed in section one hundred and ninety-five of this article. The roof over the auditorium and the entire main floor of the auditorium and vestibule, also the entire floor of the second story of the front superstructure, over the entrance lobby and corridors, and all galleries in the auditorium shall be constructed of iron or steel and fireproof material, not including the use of wooden floor boards, and the necessary sleepers to fasten the same to, but such sleepers shall not be timbers of support. The front of each gallery shall be formed of fireproof material. The ceiling of the auditorium shall be formed of fireproof material. All lathing, wherever used, shall be of metal. The partitions in that portion of the building which contains the auditorium, the entrance vestibule, and every room and passage devoted to the use of the audience, shall be constructed of fireproof material, including the furring of outside or other walls. None of the walls or ceilings shall be covered with wood sheathing, canvas or other combustible materials; but this shall not exclude the use of wood wainscoting to a height not to exceed six feet. The walls separating the actors' dressing room from the stage and the partitions dividing the dressing room, together with the partitions of every passageway from the same to the stage, shall be constructed of fireproof material; all doors in any of said partitions shall be standard fire doors. All the shelving and cupboards in each and every dress-

ing room, property room, or other storage rooms, shall be constructed of metal, slate or fireproof materials. Dressing rooms may be placed in fly galleries, provided that proper exits are secured therefrom to fire escapes in the open courts and that the partitions and other matters pertaining to dressing rooms shall conform to the requirements herein contained, but the stairs leading to same shall be fireproofed. (*Ib.*, sec. 166; corresponds M. C., sec. 237.)

Sec. 204. **New theaters—aisles, doors and passages.**—All seats in the auditorium, excepting those contained in boxes, shall be firmly secured to the floor, and no seat in the auditorium shall have more than nine seats intervening between it and an aisle on either side, and no stool or seat shall be placed in any aisle. All platforms in galleries formed to receive the seats shall not be more than twenty-one inches in height of riser, nor less than thirty inches, width of platform. All aisles on the respective floors of the auditorium having seats on both sides of same shall not be less than two feet six inches wide where they begin, and shall be increased in width towards the exits in the ratio of two inches to five running feet. Aisles having seats on one side only shall not be less than three feet wide. The aggregate capacity of the foyers, lobbies, corridors, passages and rooms for the use of the audience, not including the aisle space between seats, shall, on each gallery or floor, be sufficient to contain one-fourth of the entire number to be accommodated on said floor or gallery, in the ratio of one hundred and fifty superficial feet of floor room for every one hundred persons. Gradients or inclined planes shall be employed instead of steps, where possible, to overcome slight difference of level, in or between aisles, corridors and passages, but no such gradient shall exceed a rise of more than one foot in ten. Every theater, such as is mentioned in sec. 198, shall have at least two exits; these exits not referring to or including the exits to the open courts at the side of the theater. Doorways of exit or entrance for the use of the public shall not be less than five feet in width, and for every additional one hundred persons or portions thereof above three hundred accommodated, an aggregate of twenty inches additional exit width must be allowed. All doors of exit or entrance shall open outwardly, and be hung to swing in such a manner as not to become an obstruction in a passage or corridor; and no such doors shall be closed or locked during any representation, or when the building is open to the public. Distinct and separate places of exit and entrance shall be provided for each gallery above the first. A common place of exit or entrance may serve for the main floor of the auditorium and the first gallery, provided its capacity be equal to the aggregate capacity of the outlets from the main floor and the said gallery. No passage leading to any stairway communicating with any entrance or exit shall be less than four feet in width in any part thereof. (*Ib.*, sec. 166; corresponds M. C., sec. 238.)

Sec. 205. **New theaters—stairways.**—All stairs within the building shall be constructed of fireproof material throughout. Stairways serving for exit of one hundred people must, if straight, be at least four feet wide between railings, and, if curved or winding, five feet wide, and for every additional hundred people to be accommodated six inches must be added to their width. In no case shall the risers of any inside stairs exceed seven and one-half inches in height, nor shall the treads, exclusive of nosings, be less than ten and one-half inches wide in straight stairs. In circular or winding stairs the width of the tread at the narrowest end shall not be less than seven inches. Where the seating capacity is for more than one thousand people there shall be at least two independent staircases, with direct exterior outlet provided for each gallery in the auditorium where there are not more than

two galleries, and the same shall be located on opposite sides of said gallery. Where there are more than two galleries one or more additional staircases shall be provided, the outlets from which shall communicate directly with the principal exit or other exterior outlet. All said staircases shall be of width proportioned to the seating capacity as elsewhere herein prescribed. Where the seating capacity is for one thousand people or less two direct lines of inside staircases only shall be required, located on opposite sides of the galleries and in both cases shall extend from the sidewalk level to the upper gallery, with outlets from each gallery to each side of said staircases. At least two independent inside staircases, with direct exterior outlets, shall also be provided for the service of the stage, and shall be located on opposite sides of the same. Where straight stairs return directly on themselves a landing of the full width of both flights, without any steps, shall be provided. Stairs turning an angle shall have a proper landing without winders introduced in said turns. In stairs when two side flights connect with one main flight no winders shall be introduced, and the width of the main flights shall be at least equal to the aggregate width of the side flights. Circular or winding stairs shall have proper landings, introduced at convenient distances. All staircases shall have strong hand rails on both sides and on platforms and landings where the same is less than the width of the stairs. If walls are used for the partial or entire support or inclosure of stairs such walls are to be built of incombustible materials. (*Ib.*, sec. 168; corresponds M. C., sec. 239.)

Sec. 206. New theaters—location of boilers.—Every steam boiler which may be required for heating or other purposes shall be located outside of the building, and the space allotted to the same shall be inclosed by walls of masonry on all sides, and the ceiling of such space shall be constructed of fireproof material. All doorways in said wall shall have standard fire doors. (*Ib.*, sec. 169; corresponds M. C., sec. 240.)

Sec. 207. New theaters—registers and radiators.—No floor register for heating shall be permitted. No coil or radiator shall be placed in any aisle or passageway used as an exit, in such manner as shall form an obstruction in said passageway or exit. All supply, return or exhaust pipes shall be properly encased and protected where passing through floors or near woodwork, as required in section 153 of this article. (*Ib.*, sec. 170; corresponds M. C., sec. 241.)

Sec. 208. Stand pipes and fire apparatus.—Every building such as is mentioned in section 198 shall have stand pipes, hose and fire apparatus as required in section 196. Nothing contained in section 198 and following sections pertaining to new theaters shall be construed as relieving them in any wise from any of the obligations imposed by sections 195, 196, 197 of this article. (*Ib.*, sec. 171; compare M. C., sec. 242.)

Sec. 209. Department of buildings to have control in every theater—certificate to be posted—penalty for failure.—The stand pipes, gas pipes, electric wiring, hose, footlights, and all apparatus for the extinguishing of or guarding against fire in every theater, shall be in charge of and under the control of the building department, and the Commissioner of Public Buildings is hereby directed to see that the provisions of this article in respect thereto are carried out and enforced; and for the purpose of carrying out the provisions of this article the Commissioner of Public Buildings shall make not less than two inspections each year of all the theater buildings, and shall render his certificate, fully setting forth the

conditions of said building, and whether the provisions contained in this article have been fully complied with. It shall be the duty of any manager, owner, lessee or keeper of any theater whose place is open to public business to post such certificate of the Commissioner of Public Buildings, or a true copy thereof in the lobby and auditorium of said theater. Any failure to comply with the provisions of this section is hereby declared to be a misdemeanor and on conviction thereof such persons shall be fined a sum not less than five dollars nor more than one hundred dollars. (*Ib.*, sec. 172; compare M. C., sec. 245.)

Sec. 210. New theatrical buildings must first be approved by Building Commissioner—no license until certificate be given—hearing to be had whether article complied with—proceedings—revocation of permit by License Collector—reinstatement.—No building shall hereafter be erected, or altered, or be opened to the public, or used for theatrical or operatic purposes, or for public entertainments of any kind where stage scenery or apparatus are employed, until the Commissioner of Public Buildings shall have approved the same in writing as conforming to the requirements of this article so far as applicable to such buildings, and the License Collector of the City of St. Louis shall not issue any license for any theater to be conducted in such building until a certificate in writing of approval, as aforesaid, shall have been given by the Commissioner of Public Buildings. If, upon inspection, of any theater building, public hall or place of public amusement, as provided in sections 209 and 210, the Commissioner of Public Buildings shall find that any of the provisions contained in this article have not been fully complied with, he shall serve a written notice on the manager, lessee, proprietor, owner or keeper of such theater, public hall or place of public amusement, stating in what respect the provisions of this ordinance have not been complied with and naming a time when such manager, lessee, owner, proprietor or keeper may appear before him and show cause why a certificate as provided for in section 209 should be issued. Upon such hearing, the Commissioner of Public Buildings shall issue his certificate in case he finds that all the provisions of this article have been complied with. Otherwise, he shall refuse to issue the same and shall revoke any certificate that may have heretofore been issued. Upon revocation of such certificate or upon refusal to issue a new one, as the case may be, it shall be the duty of the Commissioner of Public Buildings to immediately notify the License Collector of that fact and the License Collector shall thereupon revoke the license, if any, theretofore issued by him to such manager, lessee, owner, proprietor or keeper of such theater, public hall or place of amusement, provided, however, that upon a new certificate being issued by the Commissioner of Public Buildings stating that all the provisions of this article have been complied with by such manager, lessee, owner, proprietor or keeper, the License Collector shall reinstate such revoked license. (*Ib.*, sec. 173; compare M. C., sec. 48.)

Sec. 211. Penalty.—Any manager, lessee, owner or keeper of any theater, public hall or place of public amusement, carrying on the business of theatricals, or keeping a place of public amusement of any kind, liable to pay a license for such business under any ordinance or the City of St. Louis, and carrying on said business without first having furnished said certificate from the Commissioner of Public Buildings and obtained a license therefor or shall carry on said business after the revocation of his license, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in a sum not less than twenty-five dollars nor exceeding one hundred dollars. (*Ib.*, sec. 174; compare M. C., sec. 49.)

Sec. 212. Aisles of theaters and all public places of assemblage to be kept free from obstruction—doors to swing outward.—

It is hereby made the duty of every manager, lessee, owner, keeper, or trustee of every theater, hall or place of amusement, or instruction, or assemblage, or worship, or wherever people congregate, to have all doors leading from such places to swing outward and so hung as not to obstruct the free passage therefrom, and it shall be the duty of all persons aforesaid to keep all halls, passageways, stairways and aisles of such places at all times free from obstructions of every kind, which may prevent free egress therefrom. (*Ib.*, sec. 175; corresponds M. C., sec. 50.)

Sec. 213. Same—penalty.—Any manager, lessee, owner, keeper, or trustee of any theater, hall or place of amusement or instruction, or assemblage, or worship, or wherever people congregate, who shall violate, or fail or neglect to comply with any of the provisions of the preceding section, shall upon conviction be deemed guilty of a misdemeanor, and shall be fined not less than twenty-five dollars nor more than five hundred dollars. (*Ib.*, sec. 176; compare M. C., sec. 51.)

Sec. 214. Billboards.—Hereafter no billboard having twenty-five square feet or more of surface shall be erected, altered, refaced or reconstructed without a permit from the Commissioner of Public Buildings, and the manner of construction, location and dimensions of such billboards shall be subject to the approval of the Commissioner of Public Buildings, in accordance with the provisions of this section. The term "Billboard" within the meaning of this section shall include all structures of whatever material the same may be constructed, which are erected, maintained or used for the public display of posters, painted signs, pictures or other pictorial or reading matter, except that the term "billboard" shall not be applied to such signs as are attached to the roofs or walls of buildings, as provided for in section 121 of this article. No billboard hereafter erected, altered, replaced or reconstructed shall exceed fourteen feet in height above the ground, and every such billboard shall have an open space of at least four feet between the lower edge and the ground, which space shall not be closed in any manner while the billboard stands; nor shall any such billboard approach nearer than six feet to any building nor to the side line of any lot nor nearer than two feet to any other billboard, nor shall any such billboard exceed five hundred square feet in area, nor approach the street line on any street, alley or right of way on which any lot fronts or abuts, nearer than fifteen feet, but in all cases where the building line of buildings within fifty feet of the proposed billboard is more than fifteen feet from the street line or boundary line then such billboard shall not approach nearer to such street line or lot boundary line than the distance that the building line of such buildings is from such street line or lot boundary line; and where buildings are hereafter built near or adjacent to billboards such billboards shall be so moved or cut off as to leave a space of not less than six feet between the building and such billboard, which shall in all other respects also comply with the terms of this section. Any billboard which may now be or hereafter become rotten or unsafe and any billboard which shall hereafter be erected, altered, refaced or reconstructed, contrary to the provisions of this section or any of them, shall be removed or otherwise properly secured in accordance with the terms of this section by the owner thereof, or by the owner of the ground on which such billboard shall stand, upon receipt of proper notice so to do, as provided in section 216 of this article, for the removal of unsafe structures, and no

rotten or unsafe billboard shall be repaired or rebuilt except in accordance with the provisions of this section and upon a permit issued from the Commissioner of Public Buildings. (*Ib.*, sec. 170; compare M. C., sec. 209.)

This section was held void in the circuit court (St. Louis Gunning Advert. Co. vs. St. Louis, No. 41845, Div. 6) and the case is now pending on appeal in the Supreme Court.

Sec. 215. Fences, screens, etc.—No fence, screen or structure in the nature of a fence which exceed six feet in height shall hereafter be erected in the City of St. Louis unless the same is so constructed that the surface thereof is at regular intervals and in a uniform manner penetrated with openings, or latticed to the extent of at least fifty per cent of the area thereof, provided, however, that this section shall not apply to fences constructed wholly of brick or stone.

It shall be unlawful to erect or maintain any fence, screen, or other structure in the nature of a fence or screen exceeding eight feet in height above the ground unless such fence be constructed wholly of brick, metal or other non-combustible material. (*Ib.*, sec. 178; compare M. C., sec. 208.)

Sec. 216. Unsafe structures—notice to remove or make secure—condemnation cost, how paid—failure to comply with notice misdemeanor—penalty.—Whenever the Commissioner of Public Buildings shall be informed or have reason to believe that any building or other structure within the City of St. Louis is in a condition or situation to endanger the lives of persons passing or residing in the vicinity thereof, or to endanger property, he shall immediately proceed to make a survey or examination of said building or other structure, and if, in his opinion, said building or other structure is in a condition or situation to endanger the lives of persons or injure property, he shall notify the owner or owners of such building or other structure to have the same removed or otherwise properly secured within three days after service of such notice, and should said owner or owners fail to comply with said notice it shall be the duty of the Commissioner of Public Buildings to proceed forthwith to have the same secured so as to render it safe unless, in his judgment, the same cannot reasonably be secured or rendered safe, in which case he shall demolish and remove the same, or so much thereof as may be necessary. The cost of securing said building or other structure or demolishing the same, or any part thereof, by the Commissioner of Public Buildings, shall be paid in the first place by the city out of a contingent fund, for which there shall be made an annual appropriation of not less than one thousand dollars for the purposes here designated. The Comptroller, upon receipt of a certificate from the Commissioner of Public Buildings of the amount expended by him for the securing or demolishing of any such building or other structure, which certificate shall be approved by the Mayor, shall then make out bills for said work against the owner or owners of said building or other structure. In case said bills are not paid upon presentation they shall be placed in the hands of the City Attorney or in the hands of some officer of the law department, who shall proceed to collect the same, by suit if necessary, and the amounts when collected shall be credited to said contingent fund. Every such owner who shall fail to comply with the requirements of the notice hereinbefore in this section provided for, shall be guilty of a misde-

meanor, and upon conviction thereof shall be fined not less than twenty-five nor more than five hundred dollars. (*Ib.*, sec. 179; compare M. C., sec. 250.)

The former ordinance (M. C., sec. 250) sought to extend the duty, imposed on the owner, also to the agent; to this extent it was held void as transcending the provisions of the Charter, Art. III, sec. 26, subd. 12, covering the subject matter of repairing and removing dangerous buildings, and as not authorized by subd. 5 of the same section providing for the licensing, taxing and regulating the business of real estate agents: *St. Louis vs. Kaime*, 180 Mo. 309.

Sec. 217. Same—notice, how given—interference with giving notice misdemeanor—penalty.—The notice to the owner of building or structure found to be dangerous by the Commissioner of Public Buildings, as provided in section 216, shall be directed to the owner or owners of such buildings or other structures by name, if known; if not known then under the designation of the owner or owners of the building or structure designating it, and may be served in any one of the following ways:

First—By causing said notice to be delivered to such owner either in the City of St. Louis or elsewhere.

Or, second, by posting a copy of such notice upon the building or other structure, said notice to be deemed served at the end of twenty-four hours after the posting thereof.

Or, third, by mailing such notice, or copy thereof, enclosed in a sealed envelope, postage prepaid, directed to such owner, either at his business or residence address in this city or elsewhere, said notice to be deemed served twenty-four hours after the mailing of said notice, in case it is directed to the business or residence address of the owner in the City of St. Louis. Provided, that if the said owner or owners be non-residents of the City of St. Louis, and have no business addresses or offices in the City of St. Louis, then the said notice shall be deemed served at the end of such period after the mailing thereof as in the ordinary course of transmission of the mails by the United States Government would be required for the receipt of said notice by the owner or owners at their place of residence or business.

Or, fourth, by publication in the newspapers doing the city printing, said notice to be deemed served twenty-four hours after publication.

In case such building or other structure is in the occupancy of a tenant or tenants it shall be the duty of the Commissioner of Public Buildings to post a copy of such notice upon such building or other structure.

Every person who shall attempt to prevent the Commissioner of Public Buildings, or any other employe of the City of St. Louis, from posting such notice on such building or other structure, or shall remove said notice or mutilate it or deface it, within four days after the same is posted, unless in the meantime such building or other structure has been put in a safe condition or been demolished, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five nor more than five hundred dollars. (*Ib.*, sec. 180.)

Sec. 218. Same—agent prohibited to rent or lease—penalty.—No agent of the owner of any building or other structure shall, after notice from the Commissioner of Public Buildings that such building or other structure is unsafe or dangerous, rent or lease the same or any part thereof, or collect any rent therefor until such building or other structure shall be rendered safe and secure or shall be demolished. Every agent who shall

violate any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five nor more than five hundred dollars. (*Ib.*, sec. 281; compare M. C., sec. 252.)

See note to sec. 216 *supra*.

Sec. 219. Costs, how paid—lien on property of delinquent owner—violation misdemeanor—penalty.—The Commissioner of Public Buildings shall have power to require all persons to correct, remove, or abate any state of things done, caused or permitted by them in violation of this article; and he shall upon a failure to comply with the requirements of this article, when the public interest may so require, correct, remove or abate the same and all costs attending such action in such cases shall be paid from the contingent fund, as provided in section 216, and then collected from the party offending as there provided, and the same shall also be a lien against the property whereon such violation was permitted to exist, to be collected as provided by law for liens in such cases; and any person, firm or corporation, who shall refuse or neglect to comply with the provisions of this section, or who shall violate any of the provisions thereof, shall be deemed guilty of a misdemeanor and shall be subject to the penalty as provided in section 221. (*Ib.*, sec. 182; compare M. C., sec. 68.)

Sec. 220. Duties of police.—It shall be and is hereby made the duty of the police force of the City of St. Louis to report to the Commissioner of Public Buildings any violation of the provisions of this article occurring upon the respective beats of policemen. (*Ib.*, sec. 183; corresponds M. C., sec. 251.)

Sec. 221. Penalty where none other provided.—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall, in cases where no specific penalties are herein provided, be punished by fine of not less than five nor more than five hundred dollars. (*Ib.*, sec. 184; compare M. C., secs. 72 and 252.)

Sec. 222. Duty of Commissioner to enforce ordinance—willful failure of commissioner or subordinate cause for removal.—It shall be the duty of the Commissioner of Public Buildings to see that the provisions of this article are enforced. Any willful failure to enforce said provisions on the part of the Commissioner of Public Buildings, or any subordinate in his office shall be deemed a sufficient ground for removal from office of any of said officials. (*Ib.*, sec. 185.)

Sec. 223. Boiling inflammable substance.—No person shall in this city boil any pitch, tar, rosin, turpentine, varnish or other inflammable substance, unless the same be done in an open place at least thirty feet distant from any building, boat, vessel or other property that might be injured thereby, or in a fireproof building; provided, however, that for roofing or roof repairing the materials necessary therefor may be boiled in the roadway immediately adjoining the curbstone, except that no fires shall be built upon any highway or street paved with asphaltum. (*Ib.*, sec. 186; compare ord. 20732; corresponds to M. C., sec. 58.)

The ordinance is the same as that in M. C., sec. 58, but this latter was amended by ord. 20732, approved June 23, 1902, permitting boiling of materials for roofing on brick, granite or wood pavements, when covered with eighteen inches of cinders. This latter ordinance is not referred to in the new building ordinance as repealed in express terms (Charter, Art. III, sec. 28).

Sec. 224. Burning matter in street prohibited.—No person shall burn any shavings, leaves, rubbish or other matter in any street, alley or thoroughfare or public place or near any inhabited place in this city. (*Ib.*, sec. 187; corresponds M. C., sec. 59.)

See secs. 597 and 1242.

Sec. 225. Use of light in stables.—No owner or occupant of a livery or other stables in this city shall, by himself or those in his employ, use therein, or in any place containing hay, straw or other combustible matter, any lighted candle or other light, except the same be securely kept within a tin or glass lantern. (*Ib.*, sec. 188; corresponds M. C., sec. 60.)

Sec. 226. Keeping hay or straw.—No person shall, except outside of the fire limits in this city, have, put or keep any hay or straw in sack or pile without having the same enclosed or secured so as to protect it from flying sparks of fire. (*Ib.*, sec. 189; corresponds M. C., sec. 61.)

Sec. 227. Burning coal or brand to be protected.—No person shall in this city carry, or cause to be carried, in any street or thoroughfare any burning coal or brand, unless the same be shut up in a covered vessel. (*Ib.*, sec. 190; corresponds M. C., sec. 62.)

Sec. 228. Firearms not to be discharged—permission.—No person, not being a member of the police force, or on duty in a military corps, and acting under orders from the commander thereof, or not being a manufacturer of firearms, and trying or proving articles manufactured by him, so as not to endanger or injure persons or property in the neighborhood, shall discharge any kind of firearms in this city, and then only by permission of the Mayor. (*Ib.*, sec. 191; corresponds to sec. 64 of M. C.)

Is this and following two sections germane to the subject matter as indicated in the title to the building code ordinance?

Sec. 229. Pyrotechnic displays—permission.—No person shall, in this city, discharge or set off any rockets, or any other pyrotechnic exhibition without the written consent of the Mayor, specifying the place and time, where and when the same may be done. (*Ib.*, sec. 192; corresponds M. C., sec. 65.)

An ordinance prohibiting explosion of fire-crackers, squibs, roman candles, pin-wheels, or other combustible device, without written consent of the Mayor specifying the time and place is valid: *Centralia vs. Smith*, 103 Mo. App. 438, 440.

Sec. 230. Fire crackers, etc.—No person shall in this city, fire or set off any squib, cracker or other fireworks not previously designated. (*Ib.*, sec. 193; corresponds M. C., sec. 66.)

Sec. 231. Flues or chimneys, cleaning and burning.—The owner or occupant of any house, shop or other building in this city shall cause the flues or chimneys thereof to be swept or burned out as often as may be requisite to keep the same clean; in case of burning out a flue, it shall be done in the daytime, and only when a rain is falling or when the roof of the building is covered with snow. If any person shall cause the flues of a house occupied by him to be fired at any other time than herein expressed, he shall be liable to the penalties herein prescribed. (*Ib.*, sec. 194; corresponds M. C., sec. 67.)

Sec. 232. Keeping of hay, etc., petroleum, etc.—All hay, cotton or hemp in bales or in bulk for the purpose of baling, or to be used for manufacturing purposes and also all crude petroleum, naphtha, benzine, gasoline, or coal oil, held within the fire limits, as defined in this article, shall be kept stored in suitable and substantial brick or stone buildings, which shall be buildings of first class. Nothing herein contained, however, shall be so construed as to prevent hay from being kept in stable for immediate use, or hay kept in feed stores and baled in quantities in not exceeding five hundred bales, or coal oil of the approved State standard (one hundred and ten degrees Fahrenheit), duly inspected, not exceeding ten barrels in quantity, from being kept by any person for retailing or jobbing purposes. (*Ib.*, sec. 195; corresponds M. C., sec. 69.)

Sec. 233. Petroleum, etc., storing—sign displayed.—Petroleum, naphtha, benzine, gasoline, turpentine, varnish and coal oil shall be stored in first-class buildings only, which shall be designated by the Commissioner of Public Buildings, and a sign shall be conspicuously placed on the outside of all buildings. (*Ib.*, sec. 196; corresponds M. C., sec. 70.)

Sec. 234. Petroleum, etc., baled hay, etc., removal from depot.—All petroleum or coal oil, naphtha, turpentine, gasoline, baled hay, cotton and hemp, shall be removed from the respective railroad depots within forty-eight hours from the time the same is received at the depot. The provisions of this section shall not be held to prevent the establishment of manufactories of hemp in the City of St. Louis; provided, that the buildings for said purpose shall be so constructed as to be buildings of the first-class. (*Ib.*, sec. 197; corresponds M. C., sec. 71.)

[**Sec. 234a. Additional provisions.***]

*After the enactment of the Revised Code (and hence too late to be incorporated therein) five new sections were added to the building code law, which if they had been enacted in time to become part of the Revised Code would appear immediately after sec. 234. The above designation "Sec. 234a. Additional Provisions," is not a part of the Revised Code, but is inserted as a convenience to call attention to the additional ordinance. The ordinance adding these sections is No. 23013, approved April 1st, 1907, the provisions of which "govern and regulate the composition, strength, resistance and use of concrete and re-enforced concrete, used in the construction, erection, reconstruction, modification, alteration and repair of buildings in the City of St. Louis." See the ordinance set out in full in the appendix to the Revised Code.

CHAPTER 2.

OF CITY SURVEYORS.

Sec. 235. Appointment of surveyors—powers and duties.—The Mayor, by and with the approval of the Council, may appoint any number of competent persons, who shall be civil engineers, as city surveyors, who shall possess all the powers and perform the duties of county surveyors, as now provided by the laws of the State of Missouri applicable to counties having over one hundred thousand inhabitants. (M. C., sec. 254.)

See Scheme, sec. 16. Competency of surveyors as witnesses: *Johnson vs. Boonville*, 85 Mo. App. 199.

Sec. 236. **Bond.**—Each city surveyor so appointed shall give a good and sufficient bond to the city in the sum of fifteen thousand dollars, conditioned that he will faithfully perform the duties of city surveyor under said appointment, which bond must be executed by the appointee, and at least two good sureties, to be approved by the Mayor and Council, and no such bond shall be approved unless each of the sureties thereon be the owner of real property assessed at not less than one-half of the amount of the bond. (M. C., sec. 255.)

Sec. 237. **Actions on bonds.**—Any person who may employ such city surveyor, and who may sustain loss or damage by reason of the negligence, incompetency or misconduct of such surveyor, shall be permitted to bring an action on the bond of such surveyor in his own name in any court having jurisdiction in the premises; provided, that any such action shall be brought within five years after the expiration of the commission of such surveyor. (M. C., sec. 256.)

Action on bond of city surveyor: *Haughey L. & U. Co. vs. Joyce*, 41 Mo. App. 564.

Sec. 238. **Term of office and fees.**—The city surveyors so appointed shall be commissioned and hold office for the term of four years from the respective dates of their respective commissions, and they shall be allowed to charge for their services the same fees now allowed to county surveyors by an act entitled "An act to amend chapter twenty-seven of the general statutes of the State of Missouri relating to county surveyors," approved March twenty-fifth, eighteen hundred seventy-two. (M. C., sec. 257.)

CHAPTER 3.

OF CORONER AND MORGUE.

Article I—Of Coroner.
II—Of Morgue.

ARTICLE I.

OF CORONER.

Sec. 239. **Qualifications and term of Coroner.**—The coroner shall possess the qualifications prescribed in section ten, article four, of the charter, and he shall be elected by the qualified voters of said city at the general election when representatives are elected to the general assembly of the state, and shall hold his office for two years, and until his successor is duly elected and qualified. (M. C., sec. 258.)

Sec. 240. **Certificate of election.**—The register shall give to the coroner a certificate of his election, authenticated by the seal of the city. (M. C., sec. 259.)

Sec. 241. **Bond.**—Before the coroner shall enter upon the duties of his office he shall give bond to the State of Missouri in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office,

which bond shall be approved by the Mayor; said bond shall be signed by two or more securities, who shall be holders of unincumbered real estate within the city. (M. C., sec. 260.)

Sec. 242. Vacancy in office, if bond not given—new election.—If the coroner neglect to give bond and qualify within twenty days after his election his office shall be deemed vacant and the Mayor shall, by proclamation, order an election to fill such vacancy for the unexpired term thereof, to be held on some day named in such order, not less than twenty nor more than thirty days next after the issuing of the proclamation. (M. C., sec. 261.)

Sec. 243. Powers and authority.—The coroner shall have and exercise within the limits of the City of St. Louis all the power and authority which, by the general laws and statutes of the State of Missouri, are vested in the coroner of the several counties of the state, and also all the power and authority which, by special laws applicable to St. Louis county, were vested in the coroner of said county, at the time of the separation of said county from the City of St. Louis, so far as the same do not conflict with the charter of St. Louis, and the said coroner shall be subject to all the duties and obligations imposed upon the coroners by the general and special laws aforesaid. (M. C., sec. 262.)

In accordance with the act of May 2, 1877 (amended laws 1893, p. 117). When coroner to discharge sheriff's duties—"The coroner shall discharge the duties of the sheriff in all cases in which coroners are authorized to discharge those duties by law," Scheme, sec. 5. The coroner is the proper officer to serve and execute all writs and precepts and perform all other duties of the sheriff, when the latter is for any reason disqualified from performing the duties of his office: *State vs. Smith*, 90 Mo. 37. When the office of sheriff becomes vacant by death or otherwise the coroner is authorized to perform the duties thereof. 2 R. S. Mo. 1899, sec. 10050 (see citations to R. S., this section).

Sec. 244. Deputies and Constable.—The coroner may appoint two deputies and one constable, which latter shall also act as clerk, to be approved by the Mayor. They shall hold their positions during good behavior, but may be removed for cause by the Mayor or by the coroner at his pleasure, and their salary shall cease and determine from and after the date of removal. The deputies shall take the same oath, possess the powers and perform the same duties as the coroner. The coroner shall be responsible for all the official acts of his employees. (M. C., sec. 263.)

See Laws 1893, p. 117, authorizing the appointment of two deputies.

Sec. 245. Salaries.—The salary of the coroner shall be at the rate of thirty-five hundred dollars per annum. The salary of the deputy coroners shall be at the rate of eighteen hundred dollars per annum each, and the salary of the constable, also acting as clerk, shall be at the rate of twelve hundred dollars per annum. These salaries shall be payable monthly, and shall be in full compensation for all services of an official character. (M. C., sec. 264.)

Sec. 246. Porter may be appointed—salary.—The coroner is hereby authorized, by and with the approval of the Mayor, to appoint a porter to perform and render such services in and about the coroner's office as he may from time to time be directed by the coroner to perform, and a part of said porter's duties shall be to maintain the coroner's office in a clean and well-kept condition. Said employment shall be at the pleasure of

the coroner, and for his services the porter shall receive the sum of fifty dollars monthly, at the end of each month of his employment. (M. C., sec. 265.)

Sec. 247. **Location of office—hours.**—The office of the coroner shall be in the city hall building, and shall be open for the transaction of business from eight o'clock a. m. to six o'clock p. m. from the first day of April to the first day of October, and from nine o'clock a. m. to five o'clock p. m. from the first day of October to the first day of April. (M. C., sec. 266.)

See Charter, IV, sec. 11, and note.

Sec. 248. **Entire time to be devoted to duties of office.**—The coroner and his deputies shall devote their entire time during business hours to the duties of their offices, and, failing in this, they shall be removed or suspended by the Mayor or Council. (M. C., sec. 267.)

Sec. 249. **Burials.**—Whenever an inquest shall be held, if there be no friend or relative of the deceased, nor any person willing to bury the body, nor any person whose duty it is to attend to such burials, the coroner shall procure a cheap, plain coffin and cause a grave to be dug and the body to be conveyed thereto and buried. It shall be the duty of the coroner, in so doing, to avoid all unnecessary expenses and to render to the Mayor an accurate statement of all money expended by him for such purposes, and the Mayor shall make to him a reasonable allowance for the actual expenses in procuring the coffin, hauling the body to the grave, digging the grave and burying the body, and shall certify such allowance to the auditor, who shall audit the same and draw his warrant upon the treasurer for the same. (M. C., sec. 268.)

Sec. 250. **Dead body in river—compensation for bringing ashore.**—If a dead body be found floating in the river the coroner may in his discretion pay to some person, for bringing it to the shore, a sum not exceeding two dollars, which shall be allowed to him by the Mayor and paid in the usual manner. (M. C., sec. 269.)

Sec. 251. **Stenographer.**—The coroner shall, by and with the approval of the Mayor, appoint a shorthand reporter, who shall be paid one hundred and fifty dollars a month; and whose term of office shall be co-extensive with that of the coroner who appoints him. The appointment of the shorthand reporter herein provided for shall be made immediately after the coroner qualifies. Said shorthand reporter may be removed at any time by the coroner, and when so removed a successor shall be appointed, as herein above provided, for the remainder of the term. (M. C., sec. 270.)

Sec. 252. **Same—duties.**—It shall be the duty of the shorthand reporter to take all testimony at inquests when and where the coroner requests him so to do; to furnish typewritten transcripts of such testimony for the use of the coroner's office and the courts in which they may be needed; and to do such other shorthand work as may be required by the coroner. He shall also furnish certified copies of testimony so taken upon the order of the coroner to any citizen who may ask for it, upon payment for such copies at a rate of not more than fifteen cents for one hundred words. The fee so charged shall be collected by the coroner, who shall at

the end of each month render to the comptroller a correct account of such collections, and shall at the same time pay to the treasurer the amount so collected during the preceding month. (M. C., sec. 271.)

Sec. 253. Assistants to stenographer.—Should it become necessary at any time, for the proper control of the coroner's office, to provide assistants to the regular shorthand reporter, the coroner may, with the consent of the comptroller, employ temporary assistants for such compensation as may be fixed by them in advance, not to exceed the rate of fifty dollars per month. (M. C., sec. 272.)

This sec. amended after passage of R. C. by ord. 23117, appr. July 9, 1907.

Sec. 254. Post-mortem fees.—When a physician or surgeon shall be called on by the coroner to conduct a post-mortem examination, the Mayor shall be authorized to allow such physician or surgeon a fee, not exceeding twenty-five dollars, which shall be paid out of the treasury in the usual manner. (M. C., sec. 273.)

It is discretionary with the Mayor to allow or refuse compensation to the coroner under this section; if he refuses to act at all he may by mandamus be compelled to do so, but if he passes on the coroner's claim and refuses to allow anything mandamus will not lie: *Frank vs. St. Louis*, 145 Mo. 600.

Sec. 255. Inquest—expenses of, how paid.—The coroner shall present to the Mayor a certified statement of all the costs and expenses attending the inquest, including the fees of jurors, witnesses and others entitled to fees, for which the city is liable, and he shall give to each person a certificate of the amount of fees due him in each case, and the Mayor shall cause the same to be audited and allowed without delay, and the auditor shall draw his warrant in favor of any person to whom any such fees, cost or expenses shall be due, which shall be paid by the treasurer to such person, or upon his order in writing, indorsed on said warrant. (M. C., sec. 274.)

Sec. 256. Inquests and deaths—reports of.—It shall be the duty of the coroner to report weekly all inquests, and all deaths coming within his official knowledge, to the health commissioner. (M. C., sec. 275.)

Sec. 257. Statement of fees to be filed.—The coroner and his deputy shall at the end of every month file in the auditor's office a detailed statement, verified by affidavits, of all fees collected or received by them respectively during said month, and shall pay the amount thereof into the city treasury, taking triplicate receipts therefor, one of which shall be filed with the comptroller and the other with the auditor. (M. C., sec. 276.)

ARTICLE II.

OF MORGUE.*

*For statutory authority to establish Morgue see Laws 1873, p. 357; R. S. 1899, p. 2563, sec. 9 (State Laws for St. Louis, sec. 399). The Health Commissioner has charge of the Morgue: *Rev. Code post* sec. 450.

Sec. 258. Coroner to control morgue.—The Morgue shall be under the control and management of the coroner. (M. C., sec. 277.)

Sec. 259. Coroner to make rules of management.—The coroner, by and with the approval of the Mayor, shall make all necessary rules for the government of the morgue. (M. C., sec. 278.)

Sec. 260. Morgue, in charge of whom and when to be open.—The morgue shall be in charge of the superintendent, appointed by the coroner and approved by the Mayor, and shall be open at all hours of the day and night for the reception of bodies. The exhibition hall shall be open daily from sunrise to sunset, when a body is in the morgue that has not been recognized. (M. C., sec. 279.)

Sec. 261. Duties of superintendent.—The superintendent shall have full charge and control of the morgue building and all property therein contained and shall keep a record book in the office of the morgue, in which citizens may record the names of missing friends and describe their persons and clothing, and give the address to which information respecting them may be sent. (M. C., sec. 280.)

Sec. 262. Exhibition in morgue—length of.—All bodies brought to the morgue shall remain, if they are not recognized, in the hall of exhibition seventy-two hours, or longer if deemed necessary by the coroner. The clothing shall also be exhibited near the body, and shall remain exposed twenty days longer if the body has not been recognized. Bodies when identified shall be immediately withdrawn from exhibition and placed in a private room, subject to the action of the coroner. (M. C., sec. 281.)

Sec. 263. Coroner to report to Health Commissioner.—On the first day of each month the coroner shall make a report to the health commissioner, who shall present the same to the board of health at its next session, giving the following details: First, date of reception of identified bodies; second, name, age, profession or residence of deceased; third, cause of death; fourth, mode of death; fifth, hour of death; sixth, place of death; seventh, by whom removed; eighth, name of undertaker; ninth, when it can be learned, the place where the body has been buried. (M. C., sec. 282.)

Sec. 264. Statement of bodies not identified.—The coroner shall also furnish a statement of bodies not identified, as follows: First, a succinct description of the body, and whether male or female; second, probable age, and whether white or colored; third, mode of death; fourth, place where found. (M. C., sec. 283.)

Sec. 265. Requisition, on whom made.—The coroner shall make requisition on the commissioner of supplies for all articles needed for the morgue, but said requisitions must in all cases be first approved by the Mayor. Whenever any repairs are needed, the coroner shall make a repair requisition on the president of the board of public improvements; said requisitions shall first be approved by the Mayor. (M. C., sec. 284.)

Sec. 266. Expense accounts to be kept.—The coroner shall cause to be kept in suitable books a full and correct account of all the expenses of the morgue. Before any money is paid the accounts shall be examined and approved by the Mayor. (M. C., sec. 285.)

Sec. 267. Assistant and porter.—The coroner, may by and with the approval of the Mayor, appoint one assistant and one porter to the superintendent. (M. C., sec. 286.)

Sec. 268. Salaries of superintendent, assistant and porter.—

The salary of the superintendent shall be twelve hundred dollars per annum, payable monthly, the salary of the assistant shall be ten hundred dollars per annum, payable monthly. The salary of the porter shall be six hundred dollars per annum, payable monthly. (Ord. 21161, amendment to M. C., sec. 287.)

CHAPTER 4.

OF DAY LABORERS.

Sec. 269. Day's work of laborer.—From and after the first day of April, in the year eighteen hundred and eighty-seven, the period of eight hours shall be and constitute a legal day's work for any person employed in any one of the respective departments of the City of St. Louis in the capacity of day laborer. (M. C., sec. 288.)

Laws similar to this regulating the hours of labor are generally upheld as within the police power of the state, provided there is a reasonable ground therefor: *Holden vs. Hardy*, 169 U. S. 366; *State vs. Loomis*, 115 Mo. 307; and the State may enact such laws for public work done in municipalities: *Atkin vs. Kansas*, 191 U. S. 207. But see as to the limit beyond which courts will annul provisions interfering with the liberty to contract for hours of labor, the discussion in the opinions of the majority and dissenting judges in the recent case of *Lochner vs. New York*, 198 U. S. 45 (holding the New York bakers' law restricting work to ten hours a day, or sixty hours a week, to be void and unconstitutional, by a bare majority).

Sec. 270. In contracts for city, eight hours constitute day—penalty for violation.—All contracts hereafter entered into wherein the City of St. Louis is a party, for the doing of any kind of work or labor for the City of St. Louis, including work on all public buildings, works and enterprises, shall contain the following terms and conditions: A. That the men, persons, or laborers who may be employed in the doing, prosecuting, or accomplishment of such work done by the contractor with the City of St. Louis, or any one under him, or any person controlling the said men, persons, or laborers, shall not be required to work more than eight hours a day. B. That in case of the violation of such provision of such contracts the Mayor shall immediately declare such contracts cancelled and forfeited, and the work being done under such contracts shall be relet in the manner provided for the letting of such work, and such contractor shall thereafter be ineligible to bid upon such work under such reletting, and the difference in the cost of doing such work under such contract so cancelled and forfeited, and under such reletting, shall be sued for on the bond of such contractor so violating such contract. (Ord. 16514. See M. C., sec. 288 note; also M. C., p. 1003.)

This ordinance held valid in *St. Louis Quarry Co. vs. Frost*, 90 Mo. App. 677, 690, approved in *Curtice vs. Schmidt*, 101 S. W. 61, 64 (Sup. Ct. March, 1907). See note to Charter, sec. 28 of Art. VI.

As to other conditions in contracts for public work see Rev. Code, sec. 1921.

CHAPTER 5.

OF DRINKING FOUNTAINS.

Sec. 271. Conditions for maintenance of public drinking fountains.—From and after the first day of June, nineteen hundred, no public drinking fountain, except as hereinafter specified in section 274 hereof, heretofore erected and now being maintained, shall be continued or maintained by any person whomsoever, unless the owner of the lot of ground on or in front of which any such fountain is located shall at his own cost and expense attach to such fountain an automatic shut-off, satisfactory to the water commissioner of the City of St. Louis, which device shall so operate that when the bowl or basin of the fountain is full the supply of water shall be automatically shut off, and the water shall not again flow until a portion thereof, in said bowl or basin, has been withdrawn; and upon such automatic shut-off or device having been attached, to the satisfaction of the water commissioner, the said commissioner shall allow water to be furnished to said fountain without any charge therefor: Provided, however, that said property owner shall first file with the city register an acceptance, in writing, of the terms and conditions of this Chapter, in a form to be approved by the city counselor, which acceptance shall contain an agreement on the part of such property owner to keep the said automatic shut-off or device in good and suitable condition and repair, and to operate said fountain to the satisfaction of the water commissioner, and an agreement on his part, that he will, at any time, upon notice from the water commissioner, repair the same, and any connection with or attachment to said fountain, and that in default of his so doing, or in default of his failure to operate said fountain, he will, on five days' notice from said commissioner, remove said fountain at his own cost and expense, and at his own cost and expense will restore the street or public place where said fountain may have been erected, to as good condition as it was in before the erection of the same, and to the satisfaction of the street commissioner of the City of St. Louis; and upon his failure to comply with such notice, that said fountain may be removed and said restoration made by said street commissioner, and that said property owner will thereupon pay to the City of St. Louis all costs and expenses incurred by said street commissioner, to be recovered of him by the City of St. Louis in any court of competent jurisdiction. (Ord. 20075, sec. 1; M. C., p. 977.)

Sec. 272. Conditions for erecting public drinking fountains.—No public drinking fountain shall, after the approval of this chapter, be erected in the City of St. Louis except upon the following terms and conditions, to-wit: First, the owner of any lot of ground in the City of St. Louis desiring to erect a public drinking fountain on or in front of his premises shall submit to the board of public improvements an application therefor accompanied by full and detailed plans and specifications, showing the character, form and dimensions thereof, and said board of public improvements may, if it approves such plans and specifications, grant a permit for the erection of such public drinking fountain in conformity with such plans and specifications: Provided, that said fountain shall not be erected within three hundred yards of any fountain the erection or maintenance of which is properly authorized, and that said fountain shall have attached an automatic shut-off satisfactory to the water commissioner of the City of St. Louis, which device shall so operate that when the bowl or basin of the fountain is full the supply of water shall be automatically shut off, and the water shall not again flow until a portion thereof, in said bowl or basin,

has been withdrawn. Second, the water commissioner shall allow water to be furnished to said fountain without any charge therefor: Provided, that before commencing the work of erecting such public fountain, the owner of such fountain shall first file with the city register an acceptance, in writing, of the terms and conditions of this chapter in a form to be approved by the city counselor, which acceptance shall contain an agreement on the part of such property owner to erect the fountain within thirty days from date of permit, to keep the said automatic shut-off or device in good and suitable condition of repair, and to operate said fountain to the satisfaction of the water commissioner, and an agreement on his part that he will, at any time, upon notice from the water commissioner, repair the same, and any connection with or attachment to said fountain; and that in default of his so doing or in default of his failure to operate said fountain, he will, on five days' notice from said commissioner, remove said fountain at his own cost and expense, and at his own cost and expense will restore the street or public place where said fountain may have been erected to as good condition as it was before the erection of the same, and to the satisfaction of the street commissioner of the City of St. Louis; and upon his failure to comply with such notice that said fountain may be removed and said restoration made by said street commissioner, and that said property owner will thereupon pay to the City of St. Louis all costs, and expenses incurred by said street commissioner, to be recovered of him by the City of St. Louis in any court of competent jurisdiction. (*Ib.*, sec. 2; M. C., p. 979.)

Sec. 273. Conditions for discontinuance.—Any person maintaining a public drinking fountain, or who may hereafter erect any such, as herein provided for, may discontinue the same and remove the same at his own cost and expense from the streets and public places of the city, on notice to the water commissioner of the city, and by complying with the requirements of the water commissioner in reference thereto, and shall then, in addition to all other requirements now or hereafter provided by law, restore, at his own cost and expense, the street or public place to as good condition as it was before the erection of said public drinking fountain, to the satisfaction of the street commissioner, and failing so to do the same shall be restored by the street commissioner, and the cost and expense of so doing shall be recovered against the person maintaining the same, by the City of St. Louis in any court of competent jurisdiction. The same procedure shall be had in all cases where the person erecting or maintaining such public drinking fountain fails or refuses to comply with the provisions of this chapter or with the provisions of any ordinance now existing or that may hereafter be adopted relating to public drinking fountains. (*Ib.*, sec. 3; M. C., p. 979.)

Sec. 274. When provisions herein do not apply.—The provisions of this chapter shall not apply to any public drinking fountain erected pursuant to the provisions of the following ordinances, to-wit: Ordinances numbered eleven thousand seven hundred and fifty-two, eleven thousand eight hundred and seventy-four, thirteen thousand six hundred and sixty-six, fourteen thousand and seventy-nine, sixteen thousand one hundred and four, sixteen thousand eight hundred and sixty-two, seventeen thousand two hundred and twenty-two, seventeen thousand nine hundred and thirteen, eighteen thousand and eighty-two, eighteen thousand one hundred and sixty-one. (*Ib.*, sec. 4; M. C., p. 979.)

Sec. 275. Humane society may establish.—The Humane Society of Missouri is authorized to erect public drinking fountains in the streets

of the City of St. Louis at such points and upon such plans as shall be approved by the board of public improvements; and said fountains, when completed and connected with the water-works system, shall thereafter be supplied with water by the city; provided, however, that said fountains shall not exceed ten in number. (M. C., sec. 295.)

CHAPTER 5a.

OF FACTORY INSPECTION.

Sec. 276. Appointment of Factory Inspector—employees—qualifications—tenure.—The Mayor shall appoint by and with the consent of the Council, a factory inspector. Said factory inspector is authorized to employ, by and with the consent of the Mayor, two deputy inspectors, who shall possess the same qualifications and perform the same duties required by this chapter of the factory inspector. The factory inspector, shall appoint a clerk, who shall act as collector for the factory inspector, and perform such other duties in connection with his office as shall be imposed upon him by the factory inspector. The factory inspector must be a resident of the City of St. Louis for at least three years prior to his appointment, and over twenty-one years of age. The same qualifications shall apply to his deputies and clerk.

The factory inspector, his deputies and clerk, shall hold their respective office for the term of four years, commencing ten days after the passage and approval of this ordinance, and until their successors are appointed and qualified. (Ord. 20074, sec. 1; M. C., p. 979.)

Sec. 277. Full time to be given to duties.—The factory inspector, deputies and clerk shall devote all of their time and attention to the duties of their office. (Ord. 20074, sec. 2; M. C., p. 980.)

Sec. 278. Powers and duties of inspector and deputies.—The powers and duties of the factory inspector and his deputies shall consist and be the same powers and duties enumerated in sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight of an act passed by the thirty-sixth general assembly of the State of Missouri, begun and held at the City of Jefferson, State of Missouri, on Wednesday, January the seventh, eighteen hundred and ninety-one, which act is entitled, "Inspection: health and safety of employes," "An act relating to manufacturing, mechanical, mercantile and other establishments and places, and the employment, safety, health and work hours of employes," which said act was approved April twentieth, eighteen hundred and ninety-one; also sections one and two of an act entitled, "Labor: child labor," "An act to restrict the employment of children, providing penalties for the violation thereof," passed by the thirty-ninth general assembly of the State of Missouri, begun and held at the City of Jefferson, State of Missouri, on Wednesday, January twenty-sixth, eighteen hundred and ninety-seven, and approved on March twenty-third, eighteen hundred and ninety-seven: Also an act passed by the thirty-ninth general assembly of the State of Missouri, begun and held at the City of Jefferson, State of Missouri, on Wednesday, January sixth, eighteen hundred and ninety-seven, entitled, "Labor: health of employes," "An act to amend sec-

tion fourteen of an act entitled, 'An act relating to manufacturing, mechanical, mercantile and other establishments and places and the employment, safety, health and work hours of employes,' " approved March ninth, eighteen hundred and ninety-seven: Also an act passed by the general assembly of the State of Missouri, begun and held at the City of Jefferson, State of Missouri, on Wednesday, January fourth, eighteen hundred and ninety-nine, entitled, "Labor: sanitary regulations;" "An act to prohibit the manufacture of wearing apparel, purses, feathers, artificial flowers or other goods for male or female wear, in tenement and dwelling houses, except by the immediate members of the family living therein, and to label the same in certain cases; and providing for penalties for the violation of this act," approved June second, eighteen hundred ninety-nine: Also, an act passed by the fortieth general assembly of the State of Missouri, begun and held at the City of Jefferson, State of Missouri, on January fourth, eighteen hundred and ninety-nine, entitled, "Labor: Sanitation and hours of labor in bakeries and confectionery establishments," "An act to prescribe the hours of labor and sanitary conditions to be observed in bakeries and confectionery establishments; to provide penalties for the violations of this act; and to appeal [repeal] sections seventeen and eighteen of an act, approved April twentieth, eighteen hundred and ninety-one, entitled, 'An act relating to manufacturing, mechanical, mercantile and other establishments and places, and the employment, safety, health and work hours of the employes,' " approved May twenty-ninth, eighteen hundred and ninety-nine.' " (Ord. 20074, sec. 3; M. C., p. 980.)

See these State statutes as follows: Laws 1891, p. 159, being R. S. 1899, Art. XVII of Chap. 91, secs. 6431-6456; R. S. 1899, secs. 2189-2190, *ib.* 6444; Laws 1899, p. 275; Laws 1899, p. 274. Under sec. 6431 *supra* it is made "the duty of the public authorities of each city" of 5,000 inhabitants or over to provide for factory inspection. This was passed in 1891 and the ordinance in pursuance of the legislative mandate was not enacted until 1900, when the ordinance above was passed. In 1901 the state legislature without expressly repealing the act of 1891 in whole or in part, and ignoring any existing ordinance in pursuance thereof, enacted a new law: Laws 1901, p. 197 (amended by Laws 1907, p. 326). The new law creates the office of State Factory Inspector, requiring him to inspect "all factories and enforce all laws relating to factory inspection," etc., including "any lawful municipal ordinance or regulation relating to factories or their inspection." Much confusion arose by this dual system of city and state inspection, and the municipal inspection has been for some time suspended. The State Factory Inspector's Law was sustained as valid in *State vs. Vickens*, 186 Mo. 103.

Sec. 279. Establishments to be inspected.—All manufacturing, mechanical, mercantile and other establishments and places embraced within the state laws heretofore referred to, shall be inspected at least twice in each year, at intervals of six months, or oftener if necessary, and as often as it is deemed necessary by the factory inspector to properly enforce the provisions of the state laws herein embodied. Such inspections shall be made by the factory inspector, or one of his deputies, whose duty it shall be to enforce the acts of the general assembly of the State of Missouri, hereinbefore referred to. (*Ib.*, sec. 4; M. C., p. 980.)

Sec. 280. Certificate and inspection fee.—The factory inspector shall issue a proper certificate to the party in charge of each factory inspected by him or his deputies, whenever he shall find that they have complied with the requirements of the state laws hereinbefore referred to. He shall collect a fee of one dollar for every inspection made by him or one of his deputies, whether he issues a certificate or not, all of which fees must be paid by the factory inspector into the city treasury. (*Ib.*, sec. 5; M. C., p. 981.)

Sec. 281. **Salaries.**—The factory inspector shall receive, as full compensation for his services, a salary of eighteen hundred dollars per annum, and each of his deputies shall receive a salary of twelve hundred dollars per annum, and the clerk shall receive a salary of one thousand dollars per annum. (*Ib.*, sec. 6; *ib.*)

Sec. 282. **Bonds.**—The factory inspector shall give a bond to the City of St. Louis in the penal sum of five thousand dollars, with two or more sureties, to be approved by the Mayor and Council, conditioned for the faithful and impartial performance of the duties of his office, and that he will fully account for and pay into the city treasury all moneys received by him, as herein provided. The deputy inspectors and the clerk appointed under the provisions of this chapter, shall each give a bond in the penal sum of one thousand dollars, with the same conditions that are required of the factory inspector, and subject to the approval of the Mayor and Council. (*Ib.*, sec. 7; *ib.*)

Sec. 283. **Reports of inspection.**—Besides making the reports required by the state laws, hereinbefore referred to, to the labor commissioner, the factory inspector shall make semi-annual reports to the comptroller of the City of St. Louis, which report shall contain a full and complete list of all manufacturing, mechanical, mercantile and other establishments and places, in the City of St. Louis, showing the ones which he has inspected, and those he has not inspected, with a record of all fees collected by him. (*Ib.*, sec. 8; *ib.*)

Sec. 284. **Office to be provided in city hall.**—The factory inspector shall be provided with an office in the city hall, suitably furnished, including all blanks and stationery needful for his official duties. (*Ib.*, sec. 9; *ib.*)

CHAPTER 6.

FIRE DEPARTMENT.*

*Charter provisions, Art. XI, secs. 1-5. The duty imposed by sec. 5 of Art. XI on the chief to inspect buildings in course of construction was transferred by ordinance (under Chart., Art. III, sec. 32) to the Building Commissioner, R. C., sec. 27.

Charter authority for engine houses, Art. III, sec. 26, clause 3.

Sec. 285. **Composition of fire department—where stationed, etc.**—The fire department shall consist of a chief, one first assistant chief and nine [eleven] district assistants, one secretary, one assistant secretary, one master mechanic, [two hostlers for horse hospital], and such number of engineers, captains, men and employes as herein provided. Each company located in the district bounded south by Park avenue, north by Howard street, west by Jefferson avenue and east by the river, shall consist of one captain, one lieutenant, one engineer, one fireman, two drivers, and five [six] pipemen. Each company located in any of the territory not included in the district above bounded shall consist of one captain, one lieutenant, one engineer, one fireman, two drivers and two [three] pipemen. All hook and ladder companies in the district bounded above shall consist of one captain, one lieutenant, [one driver] and eight men, and all hook and ladder companies outside of said district shall consist of one captain, one lieutenant, [one driver] and seven men. There shall be one watchman for each

engine house in the city, and whenever there are double or adjoining houses used by the department, the watchman's duties shall extend thereto; the watchmen shall be disabled or old firemen, if there be such in the department. There shall be two firemen in the service of the fire department, to be stationed at each of the following institutions: City Hospital, Emergency Hospital No. Two, Insane Asylum, Poor House, Hospital for Females and the House of Refuge (now St. Louis Industrial School). One of the two men so designated and stationed at each of said institutions shall be on duty during the day and the other during the night, so that one man shall be on duty at all times. There shall be two men to each fuel wagon necessary. The master mechanic shall have had at least three years experience in the St. Louis fire department and shall have been a resident of the city at least five years, and shall be a licensed engineer of the city and a practical mechanic. The master mechanic shall have charge of the repairs of all apparatus of the department and shall see that same is kept in perfect order. (Ord. 22278 and 22809, amending 22023, sec. 296.)

Those portions of the above section that are enclosed in brackets were not passed as a part of the Revised Code but were enacted in an amendment to the section by ordinance 22809, approved Feb. 18, 1907, which was passed after the Rev. Code was submitted to the assembly and before its enactment. (See appendix for ord. 22809 as enacted.) The section as in the Revised Code apparently was intended to cover the provisions (amongst others) of ordinance 20428 providing for employment of ten additional (then) firemen and the placing of two men at each of five public institutions, all of which are provided for in the above ordinance (see sec. 288 below). Ord. 22023 amended 20801 and 21405, which affected M. C., secs. 296, 298, 311, 313.

Sec. 286. Chief—qualifications, bond, compensation.—The chief of the fire department shall have had at least five years' experience in the St. Louis fire department, and shall have been a resident of the city for at least two years; shall give bond to the City of St. Louis in the sum of ten thousand dollars, with two or more good and sufficient securities, to be approved by the Mayor and Council, for the faithful performance of his duty, and shall receive in full compensation for his services the sum of four thousand dollars per annum, and shall hold his office for the term of four years, except as otherwise provided in the charter. (M. C., sec. 297.)

See Charter, Art. XI, sec. 1.

Sec. 287. Assistants and employes—qualifications and salaries.—The first assistant to the chief shall receive as full compensation for his services the sum of one hundred and seventy-five dollars per month. The nine [eleven] other assistants shall receive for their services the sum of one hundred and sixty-six dollars and sixty-six cents per month, and all [other] assistants shall have had at least three years' experience in the St. Louis fire department, and have been a resident of the city for at least five years. The secretary shall receive as full compensation for his services the sum of one hundred and fifty dollars per month. The assistant secretary shall receive as full compensation for his services the sum of one hundred and fifteen dollars per month. The master mechanic shall receive as full compensation for his services [the sum of] one hundred and sixty-six dollars and sixty-six cents per month. Captains of each company shall receive as full compensation for their services the sum of one hundred and fifteen dollars per month. Lieutenants of each company shall receive as full compensation for their services the sum of one hundred and five dollars per month. Engineers shall receive as full compensation for their services the sum of one hundred and ten dollars per month. All other members of the department, except hospital firemen, watchmen, [and hostlers] shall receive as full com-

pensation for their services the sum of ninety-five dollars per month; provided, however, that new men appointed to the department shall for the first six months' service receive seventy dollars per month, and for the second six months eighty dollars per month. Hospital firemen shall receive as full compensation for their services the sum of eighty dollars per month. Watchmen shall receive as full compensation for their services the sum of eighty dollars per month, provided, however, that watchmen shall be selected from disabled men, or others who have served on the department, if such can be found, and as to those appointed watchmen, without such experience, the monthly salary shall be sixty dollars. [Hostlers shall receive as full compensation for their services the sum of sixty dollars per month.] (Ord. 22278 and 22809, amending ord. 22023 and M. C., sec. 298.)

As to duties of firemen at the public institutions named, see *infra* next section; as to salaries of fire telegraph department see R. C., sec. 318. Those portions of the above ordinance (sec. 287) which are enclosed in brackets constitute amendment enacted by ordinance 22809, approved Feb. 18, 1907, and are not part of, or incorporated in the Revised Code as enacted, because the said amending ordinance was enacted after the Revised Code was submitted to the assembly, though before its passage. (See appendix for ord. 22809 as enacted, in full.)

Sec. 288. Firemen at city institutions.—[The men detailed at the city institutions named in section 285] shall guard against the dangers of fire at said institutions, and prepared in the event of fire to combat the same, with the assistance of the employes of the institution, until the arrival of the proper officers of the fire department. In order to render the assistance of the firemen detailed for the service aforesaid as efficient as possible, it shall be their duty to drill the employes of said various institutions, from time to time, and to instruct them as to their respective duties in case of fire. (Ord. 20428.)

Ordinance 20428 did not include Emergency Hospital No. 2, not then in existence, but that institution is included in the new ordinance above, appearing as sec. 285.

Sec. 289. Chief—powers and duties.—The chief of the fire department shall have the superintendence and control of all engines and engine-houses, hose carriages and fire and life saving apparatus of every description belonging to the city; shall, by and with the consent of the Mayor, make such rules for the regulation of the department as may be necessary, and shall, when deemed expedient, recommend to the comptroller the sale or disposal of all horses, mules, etc., or any fire or life saving apparatus belonging to the city which may be unserviceable or not in use, and proceeds of all such sales, etc., shall be paid by the comptroller into the city treasury, taking the treasurer's receipt therefor, and a copy of the same shall be given to the chief of the fire department, and a copy filed in the comptroller's and auditor's office. And the chief of the fire department shall, in case of emergency, with the approval of the Mayor, purchase or hire such horses and mules as may be necessary for the department, and shall, with the approval of the Mayor, recommend to the commissioner of supplies the purchase of all forage and other supplies necessary for the department, and the purchase of engines and other apparatus for the extinguishment of fires and saving of lives, to such extent as appropriations may be made therefor by ordinance. He shall take into consideration and report all matters relating to the fire department and to the property of the city connected therewith, and shall annually make to the Mayor a full and complete report of the condition of the department, giving in such report a list of the fires in the city for the year next preceding, the number of false

alarms, the estimated amount of property destroyed, and such other statistics in relation to losses, insurance and the causes of fires as he may be able to procure, and such other information and suggestions in relation to the fire department as may be necessary. (M. C., sec. 299.)

Charter authority to enact ordinance to purchase horses, mules, etc, and recommend purchase of supplies, etc., as herein provided, see Charter, Art. XI, sec. 2.

The duty imposed upon the chief by Charter, Art. XI, sec. 5, to inspect buildings, etc., has been conferred (by authority of Charter, Art. III, sec. 32) upon the Commissioner of Public Buildings: See Rev. Code, sec. 27.

Sec. 290. Same subject—disputes—All disputes and controversies arising in relation to any matter connected with the department among any of its companies, officers or members, when on duty, shall be summarily decided by the chief of the fire department, or, in his absence from the place of difficulty, by the officer in command. He shall attend all fires that may occur in the city, as far as practicable, and all orders given by him to any company of firemen shall be promptly obeyed. It shall be his special duty to see that the provisions of this chapter and all ordinances relating to the department are regularly and strictly enforced. (M. C., sec. 300.)

Sec. 291. Office to be in city hall—hours.—The chief of the fire department shall establish his office in the city hall, which office shall be kept open at all hours of the day and night. (M. C., sec. 301.)

Sec. 292. Duties of assistant.—The assistants to the chief of the fire department shall discharge such duties as may be prescribed by the chief of the fire department, and in case of the absence or inability of the chief of fire department to act, all duties devolved by ordinance upon that officer shall be discharged by the senior assistant present for duty. (M. C., sec. 302.)

Sec. 293. Duties of secretary.—The secretary of the fire department shall have charge of all books and records of the department. He shall keep a correct and separate account with each engine and truck company of the department, of all expenses and repairs belonging thereto, and shall discharge such other duties as may be prescribed by the chief of the fire department. He shall prepare all pay rolls of the department, which, when approved by the chief, he shall transmit to the auditor, who shall draw his warrant for same and charge it to appropriation for fire department. (M. C., sec. 303.)

Sec. 294. Qualifications of members.—No person under twenty-one or over forty-five years of age shall be hereafter appointed as a member of the fire department, and no person shall be appointed who is not a citizen of the United States and a resident of the city for at least two years preceding his application for appointment; but nothing in this section shall be so construed as to include the present members of the present fire department. (M. C., sec. 304.)

Sec. 295. Uniforms prescribed.—Every member of the fire department shall at all fires wear a fire hat, according to his rank, or position, and at all times when on duty he shall wear a shirt of uniform color, with some distinguishing badge by which he can be distinguished as a member of the St. Louis fire department, it being understood that the articles enumerated in this section be furnished by the members at their own cost and expense. (M. C., sec. 305.)

Sec. 296. Police power of chief and assistants.—The chief of fire department and assistants shall have the same police powers at all fires as the chief of police, and may command such assistance from the inhabitants of the city for the suppression or extinguishing of fires as may be required; they shall have power to order any company, fireman or other person away from the neighborhood of a fire. Any person refusing to comply with such order shall be deemed guilty of a misdemeanor, and, on conviction thereof, be fined not less than five nor more than twenty dollars. (M. C., sec. 306.)

See Charter, Art. XI, sec. 3.

Sec. 297. Vehicles not to pass over hose.—Whenever any hose of the fire department is laid upon any street or alley for the purpose of being used by the department, it shall not be lawful for any wagon, dray, street railroad car, or any other vehicle to pass over the same. The owner or driver of any wagon, dray, street railway car, or any other vehicle, who shall drive or cause the same to be driven over said hose shall be deemed guilty of a misdemeanor, and, upon conviction thereof, before either of the police justices, shall be fined not less than five nor more than twenty-five dollars; but nothing in this section shall be so construed as to prevent street railroad cars from crossing said hose, when laid across their track or tracks, provided they use a truck or jumper, so as not to injure the hose of the fire department. (M. C., sec. 307.)

Sec. 298. Drill required.—It is hereby made the duty of the chief of the fire department to cause the men of the hook and ladder companies, and the Skinner fire escape, to be drilled in the duties of the same at least once each week, and oftener if necessary. (M. C., sec. 308.)

Sec. 299. Other drills required.—All the members of the hook and ladder companies, numbers three and four of the fire department, shall be organized, instructed and drilled for at least two hours each day, except Sundays and legal holidays, until they become proficient, and then from time to time as the chief may direct, in the handling and practical use of the scaling ladders, belt hooks, ropes, canvas life-saving tubes, gripsacks, and other apparatus of the Pompier system of life and property saving at fires. (M. C., sec. 309.)

Sec. 300. Drill master to be provided.—The chief shall at all times provide for one of each company to act as the drill master of his company, who shall take the lead at drills and fires in the absence of the instructor. (M. C., sec. 312.)

Sec. 301. Right of way to fires.—All fire apparatus shall have the right of way upon any street, avenue, or highway when going to any alarm of fire; any person or persons, owners, drivers, conductors, or engineers of any buggy, wagon, carriage, cabriolet, barouche, street car, street railroad car, steam railroad car, or other vehicle, propelled by hand, horse or steam power, who shall carelessly, wantonly, maliciously or otherwise obstruct or intercept the right of way, of the fire apparatus of the city while going to a fire, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in either of the police courts of the city in a sum not less than five nor more than twenty dollars. The chief of police is hereby directed to cause copies of this section to be printed

and placarded in at least twelve conspicuous places in each police district, and a copy of the same sent to the office of every street and steam railroad company in the city. (M. C., sec. 314.)

Sec. 302. Claims for damages, how paid.—All claims for damages to property occasioned by the fire department shall be presented to the chief of the said department, whose duty it shall be to examine them, and, if found correct, said officer shall, where the amount is not more than fifty dollars, present them to the mayor for approval. If approved by the mayor, the chief of the fire department shall certify said approved claim to the auditor, who shall thereupon draw his warrant for the amount of said claim in favor of the party or parties entitled thereto, charging the same to the fund for the fire department. (M. C., sec. 315.)

The city is not liable for damages occasioned by the carelessness of its employes of its fire department in the ordinary discharge of their duties, nor for defectiveness or insufficiency of machinery used in extinguishing fires. The creation of the fire department is not for the peculiar benefit of the municipality but of the public; the officers are not agents of the city in the sense that renders the city liable for their acts: *Heller vs. Sedalia*, 53 Mo. 159; *McKenna vs. St. Louis*, 6 Mo. App. 320.

Sec. 303. Payments of salary during sickness.—In case any member of the fire department is prevented by injury or sickness caused by his service in the department from performing his duty therein he shall receive the salary and compensation allowed him by law during such disability and sickness; provided, he produces the certificate of the chief of the fire department and the assistant in charge of the district in which such member is employed that he is unable to work from the cause aforesaid; provided, no such compensation shall be allowed unless approved by the mayor; and provided further, that such payment shall not continue longer than a period of six months. (M. C., sec. 316.)

Sec. 304. Crippled and disabled firemen.—The City of St. Louis hereby accepts the terms and conditions of an act of the General Assembly of the State of Missouri, entitled, "An act to provide for the creation, maintenance and management of funds for the pensioning of crippled, disabled and retired firemen, and for the relief of the widows, minor children and dependents of the deceased firemen, and retirement from service of members of the fire department and the pensioning of members, their widows, minor children and dependents in all cities in this State, which now have or which hereafter acquire a population of more than one hundred thousand inhabitants," (approved March twenty-third, nineteen hundred and three) and agrees to be bound by the same, and it hereby sets apart one per centum of all revenue received for municipal purposes after the beginning of the next fiscal year, which may be derived by the city from licenses, as a fund pursuant to the terms of said act. (Ord. 21467, sec. 1, amendment.)

Refers to Laws 1903, p. 87. See "Laws Specially Relating to St. Louis," ante pp. 157-160, being Chapter X; see also Const. Mo., Art. IV, sec. 47, which authorized the statute.

Sec. 305. Right to repeal or amend reserved.—The Municipal Assembly reserves the right to amend or repeal the preceding section at any time hereafter. (*Ib.*, sec. 2.)

CHAPTER 7.

FIRE AND POLICE TELEGRAPH DEPARTMENT.

Sec. 306. **Signal of alarm of fire.**—All alarms of fire shall be signaled to the proper departments of the City of St. Louis by means of the fire alarm telegraph system of said city, the central station or office of which shall be located in the city hall until otherwise directed by the Municipal Assembly or mayor. (M. C., sec. 318.)

Sec. 307. **Superintendent.**—The fire alarm telegraph system shall be under the control and supervision of a superintendent of fire and police telegraph, who shall have the entire care and management of the rooms, apparatus and machinery of said system and be responsible for the constant good repair and working of the same. (M. C., sec. 319.)

Sec. 308. **Same, bond of.**—Such superintendent shall be required to give a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars, to the city for the faithful performance of his duties. (M. C., sec. 320.)

Sec. 309. **Appointment of assistants and employes.**—The superintendent of the fire and police telegraph department shall, by and with the approval of the mayor, appoint one chief operator, three operators, three assistant operators, three fire alarm inspectors, one chief telephone inspector, two telephone inspectors, three telephone operators, one chief of construction, three line repairers and one batteryman, to be under his control and direction, and in like manner from time to time he is duly authorized to fill any vacancy that may occur in that number of resignation, dismissal or otherwise. (M. C., sec. 321.)

Sec. 310. **Oath of employes.**—The operators, inspectors, chief of construction, the repairers and batteryman, before entering upon their duties, shall be qualified by oath that they will faithfully perform, to the best of their ability, the duties of their respective offices and observe the ordinances of the City of St. Louis. (M. C., sec. 322.)

Sec. 311. **Control and direction of duties of operators, etc.**—The said superintendent shall have control and direct the duties of the operators, repairers and batteryman, have power to suspend or discharge them for neglect or violation of rules and regulations; provided, any operator, repairer or batteryman so suspended or discharged shall have the right to appeal to the mayor, whose decision in the premises shall be final. (M. C., sec. 323.)

Sec. 312. **Superintendent—control and power.**—The superintendent of fire and police telegraph shall have the entire control of all the poles, line wire, telephones, signal stations and all appurtenances of said telegraph system, and may make such improvements and alterations as to him may seem proper, providing no extra expense is incurred further than can be met by the said telegraph system, and such expense shall be paid out of the annual appropriation of said telegraph department, and in case of damage or destruction of signal stations, poles, line wire, etc., by lightning, storms of any kind, or by the natural wear of the wires or poles, which may disable or interfere with the proper working of the system, it shall be the duty of said superintendent to cause said damage to be

repaired in the shortest possible space of time, and it shall also be the duty of said superintendent to employ, with the approval of the mayor, as much extra labor as he may see proper to expedite the making of said necessary repairs. (M. C. sec. 324.)

Sec. 313. Records to be kept.—The said superintendent shall keep at the central office a record of all his official transactions, and a correct systematic account of all moneys, both receipts and expenditures. He shall also cause to be made by the operators on duty a correct record of the exact time, date and number of stations from whence alarms of fire are received. (M. C. sec. 325.)

Sec. 314. Superintendent—authority of, to erect poles.—The said superintendent is hereby authorized to erect and maintain a line or lines of telegraph poles for the use of the city and in the interest of said fire alarm and police telegraph department, upon any street or streets of the said city, and shall have the power to excavate for the same, providing he shall cause said poles to be set in the sidewalk and within one foot of the outer margin thereof, and that he will not violate such ordinances as may exist in that relation as applied to, or under, the department of the street commissioner. (M. C. sec. 326.)

Sec. 315. Fire alarm—whose duty to give.—It shall be the duty of the members of the police department and holders of keys to the fire alarm signal stations immediately on the discovery of a fire to communicate the fact to the central office of the fire alarm telegraph, by pulling the hook provided for that purpose, in the nearest fire alarm box to the fire; also that such person giving an alarm shall remain at the box from whence he signaled the alarm until the arrival of the fire department, when it shall become his duty to direct said department to the locality of the fire. (M. C. sec. 327.)

Sec. 316. Tampering with signal boxes prohibited.—No person or persons shall open any of the signal boxes connected with the fire alarm telegraph system for the purpose of giving a false alarm, or pull the hooks therein, except in case of fire, or tamper, meddle, or interfere in any way with said boxes, or any part thereof, by cutting, breaking, injuring or defacing the same, or interfere in any way whatsoever with the machinery, apparatus, line wire, poles, or brackets, or in fact anything connected with any part of said fire alarm and police telegraph department, nor connect the same by any means so as to interfere with the proper working of said system, or with intent so to do. Any person or persons who shall be guilty of a breach of any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not less than twenty-five nor more than two hundred and fifty dollars. If any person intrusted with a key to the signal boxes shall knowingly make or cause to be made an impression or copy of said key, except by written order of the superintendent of said department, such person shall be deemed guilty of a misdemeanor. (M. C. sec. 328.)

Sec. 317. Superintendent—rules to be adopted by.—The superintendent, with the approval of the chief of the fire department, shall adopt such rules and directions for signaling alarms of fire to the various departments of the city not herein provided for, and have the power to alter and change the same from time to time; all of which rules, regula-

tions and changes shall be binding upon all persons connected with said department, after a copy of the same shall have been placed on file in the office of the chief of the fire department and the city register and published in the same manner as ordinances of the city are published; provided, that the municipal assembly shall at all times have the power to alter, amend or annul the same. (M. C., sec. 329.)

Sec. 318. Salaries.—The compensation of the superintendent for his services shall be at the rate of twenty-four hundred dollars per annum; the compensation of the chief fire alarm operator for his services shall be at the rate of eighteen hundred dollars per annum; the compensation of the three fire alarm operators for their services shall be at the rate of twelve hundred dollars per annum each; the compensation of the three assistant fire alarm operators for their services shall be at the rate of nine hundred dollars per annum each; the compensation of three fire alarm inspectors for their services shall be at the rate of twelve hundred dollars per annum each; the compensation of the chief telephone inspector for his services shall be at the rate of thirteen hundred twenty dollars per annum; the compensation of the two telephone inspectors for their services shall be at the rate of twelve hundred dollars per annum each; the compensation of the three telephone operators for their services shall be at the rate of six hundred dollars per annum each; the compensation of the chief of construction for his services shall be at the rate of ten hundred eighty dollars per annum; the compensation of the three line repairers for their services shall be at the rate of nine hundred dollars per annum each; the compensation of the batteryman for his services shall be at the rate of nine hundred dollars per annum; all salaries shall be paid monthly. (M. C., sec. 330.)

As to salaries of employes in the fire department see R. C., sec. 287.

Sec. 319. Horse and buggy for superintendent.—A horse and buggy shall be allowed to the superintendent of fire and police telegraph, to be acquired and maintained at the cost of the city, the cost of said horse and buggy not to exceed four hundred dollars. (M. C., sec. 331.)

CHAPTER 8.

OF FIREWOOD AND CHARCOAL.*

*In connection with this chapter see Chapter 40, secs. 2531-2599, containing numerous provisions as to certificates, weighing, scales, inspections, fees, weights, measures, penalties, etc.

Sec. 320. Firewood—how arranged on vehicles.—All firewood brought to this city, otherwise than by water, for sale, shall be brought in vehicles which shall be open at the sides in such manner as to permit the officer charged with the measurement thereof to examine the same with accuracy. (M. C., sec. 332.)

Sec. 321. Firewood to be measured.—Before any firewood brought to this city in vehicles shall be sold the person bringing the same shall cause it to be measured by some of the weighers of hay and stone coal, and receive from him a certificate of the quantity. The certificate aforesaid

shall state the number of feet contained in such load, and the number of cords or parts of cords the measured quantity constitutes. (M. C., sec. 333.)

Sec. 322. Duty of measurer.—In making such measurement it shall be the duty of the officer to examine carefully the manner in which the wood is piled in the vehicle, and make a suitable deduction for loose and improper piling, and for crookedness and unevenness of the wood. (M. C., sec. 334.)

Sec. 323. Name to be given.—No certificate shall be given by a weigher of hay and stone coal until the person applying for measurement of wood shall give his name to that officer. (M. C., sec. 335.)

Sec. 324. Load certified not to be diminished.—No person, after having a load or quantity of wood measured and received a certificate as aforesaid, shall, before sale thereof, diminish the quantity thereof. (M. C., sec. 336.)

Sec. 325. Certificate to be delivered to purchaser.—Any person bringing wood to this city in a vehicle, and after having the same measured as hereinbefore provided, making sale thereof, shall deliver the certificate received by him as aforesaid to the purchaser, who shall retain and in no case redeliver the same to the vendor. (M. C., sec. 337.)

Sec. 326. Fees.—The weighers of hay and stone coal shall be entitled to charge for each certificate delivered by them as aforesaid five cents, which shall be paid on the delivery thereof by the person having the wood measured. (M. C., sec. 338.)

Sec. 327. Cord—computation of.—In all measurements of wood under this chapter a cord shall be computed at the rate of eight feet in length, four feet in breadth and four feet in height, well stored and packed, and parts of cords shall be computed in the same proportion. (M. C., sec. 339.)

Sec. 328. Blanks to be furnished.—The city register shall furnish to each weigher of hay and stone coal printed blank forms for certificates, to be used by them as provided and required herein; and the register shall likewise furnish each weigher of hay and stone coal with a sufficient number of printed copies of this chapter so that a copy thereof may be delivered to each person bringing firewood to the city for sale. (M. C., sec. 340.)

Sec. 329. Yard-keepers and vendors of wood—duties of.—Every person keeping a wood yard and selling wood in small quantities shall deliver to the purchaser thereof a ticket, setting forth the quantity so sold in cords and fractional cords, and shall deliver the quantity set forth in said ticket. Any person delivering a less quantity than set forth in said ticket shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum of not less than ten nor more than one hundred dollars. (M. C., sec. 341.)

Sec. 330. Certificate of measurement to be given.—Every weigher shall give a certificate of measurement, which shall truly state quantity as directed in section 321, and shall charge no more nor less than fees allowed by the provisions of this chapter. (M. C., sec. 342.)

Sec. 331. Charcoal—how measured.—All charcoal brought into this city and offered for sale shall be measured by the bushel, and all baskets or other vessels in which said charcoal is measured shall be inspected

by the inspector of weights and measures, and by him stamped or marked to be correct; and said inspector shall be entitled to a fee of fifteen cents for each basket or other vessel so inspected by him. (M. C., sec. 343.)

Sec. 332. Measures to be inspected.—Every person who sells or offers for sale any charcoal in this city shall have his basket or other vessel with which he measures the same inspected as provided in the preceding section. (M. C., sec. 344.)

Sec. 333. Penalty.—Any person who shall violate or fail to comply with any of the provisions or obligations contained in this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, except as otherwise provided for, shall be fined not less than five nor more than twenty dollars. (M. C., sec. 345.)

CHAPTER 9.

OF GAS, INSPECTION OF.*

*For Charter authority see Chart., Art. III, sec. 26, clause 7.

Sec. 334. Meter—when to be tested.—It shall be the duty of supervisor of city lighting, upon the written request of any gas consumer to have the meter supplying him with gas tested, to call at the residence or place of business of the consumer and disconnect the meter from the service pipe of the gas company supplying gas through the said meter, and bring the same to the place for testing meters, and the said supervisor shall thereupon prove and test the meter to ascertain its accuracy; and, in the event of the meter proving accurate within the meaning of this chapter, the consumer is required to pay to the supervisor the sum of one dollar for such inspection. The supervisor shall give a receipt therefor, countersigned by the city register, and pay such collections every Saturday of each week into the city treasury. And if the meter prove incorrect, the consumer is to be at no expense for the said testing; and the supervisor is thereupon required to immediately notify the gas company of the inspection, in writing, stating the percentage of inaccuracy, and order the placing of a correct meter in place of the one proving incorrect; and any refusal or neglect to do so within twenty-four hours after receiving due notice shall be deemed a misdemeanor, and, upon conviction, said company shall be fined ten dollars. (M. C., sec. 346.)

Sec. 335. Supervisor—duties of.—It shall also be his duty to inspect, test and determine the purity and illuminating power of the illuminating gas furnished by any gas company, person or persons in this city to consumers, and to report to the mayor at least once in each week, in writing, the condition of said gas as to purity and illuminating power. He shall make his test daily, and in case of failure to supply gas by any gas company according to the terms of contract entered into by the city, under any ordinance, he shall notify, in writing, the mayor and the company so failing; and in case of failure for three consecutive days to furnish gas of the standard required by contract under any ordinance he shall collect from the company so failing, after giving the respective company notice in writing on each day of said failure, the sum of two hundred and fifty

dollars for such third day and each succeeding day until the gas is of the standard and quality provided for in said contract, and pay the same to the city treasurer, taking triplicate receipts for the same, filing one in the comptroller's office, and one in the auditor's office; in case of failure to supply illuminating gas according to the standard provided by any contract, occasioned by some unavoidable accident, the penalty provided for in this section shall not be enforced, but no such penalty shall be remitted until satisfactory proof shall be furnished by said gas company to the mayor that such accident was not caused through any negligence on the part of said company, and was of such character as to render said failure unavoidable. (M. C., sec. 347.)

Sec. 336. Supervisors to examine pipes of public lamps.—The supervisor shall satisfy himself, from personal examination, that the connecting pipes of the public lamps are of sufficient size to admit a free flow of gas, and are otherwise entirely unobstructed; and it is hereby made his duty to see that the contract entered into under any ordinance is strictly complied with, and he shall report any failure to comply with the same to the mayor, in writing, without delay. (M. C., sec. 348.)

Sec. 337. Meters to be sealed and stamped.—Hereafter no new meter shall be set or put in use without first being sealed and stamped as provided by this chapter; and, furthermore, from the date of said supervisor's entry upon the duties of his office no meter whatever shall be sent from any gas company without the seal and stamp of the supervisor thereon; and the supervisor is hereby required to examine and test any meter sent to the place of testing by any gas company at the rate of a dozen meters within twenty-four hours free of charge therefor, and seal and stamp the same if found correct; and any gas company using such meters without being sealed and stamped by said supervisor as aforesaid shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined five dollars for each day that such meter has been used. (M. C., sec. 349.)

Sec. 338. Difference in registration to be adjusted.—Any difference in the registration of the meters between the consumers and the gas companies shall be promptly adjusted by said companies upon the written statement of the supervisor. When a meter is found to register inaccurately, the gas company is required to make the proper reduction according to the percentage of inaccuracy upon the amount charged in last bill. (M. C., sec. 350.)

Sec. 339. Meters—law regulating accuracy.—The law regulating the accuracy of meters shall be as follows: all meters registering within one per cent of exactness, or not ranging more than two cubic feet in every one hundred cubic feet registered, shall be considered accurate. (M. C., sec. 351.)

Sec. 340. Meters—record and report of inspection.—It shall be the duty of said supervisor to enter into a book the number of meters inspected, proved, sealed or condemned by him, and also the name of the manufacturer, and he shall make full reports of all the operations of his office semi-annually to the mayor and Municipal Assembly at the beginning of each regular session, and oftener if required. (M. C., sec. 352.)

Sec. 341. Seals—penalty for counterfeiting or defacing.—If any person or persons shall counterfeit or willfully deface the seal placed

upon any gas meter by the supervisor, the person or persons so offending shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars. (M. C., sec. 353.)

Sec. 342. **Time tables for lighting to be provided.**—It shall be the duty of the supervisor of city lighting to make out and cause to be printed time tables for lighting and extinguishing the public lamps, and furnish the police department with the same. (M. C., sec. 354.)

Sec. 343. **Duty chief police.**—It is hereby made the duty of the chief of police to report daily to the mayor and supervisor of city lighting the general condition of the street lamps and lamp posts, stating location of such lamps and posts as are out of order or requiring names of streets, and, also, to report the location of lamps not lighted as specified under any contract, and under any ordinance. (M. C., sec. 355.)

Sec. 344. **Bills gas companies to be submitted to supervisor.**—All bills of gas companies against the city shall be submitted by them to the supervisor of city lighting, who shall certify their correctness to the comptroller, after making all proper deductions under the forms of any contract or ordinance. (M. C., sec. 356.)

CHAPTER 10.

HARBOR AND WHARF DEPARTMENT.*

*For ordinances relating to Harbor and Wharf Commissioner, see *post*, sec. 1964 *et seq.*

- ART. I. Of Harbor and Wharf regulations and offenses.
 II. Of Wharfage.
 III. Of Wharf-boats.
 IV. Of Wood.
 V. Of Scavenger Dumps.
 VI. Of Ferries.

ARTICLE I.

OF HARBOR AND WHARF REGULATIONS AND HEREIN OF OFFENSES.

Sec. 345. **What wharf shall comprise.**—The wharf of the city shall comprise Front street and all the lands, river banks and beach dedicated, condemned or belonging to the city for wharf purposes within the city. (M. C., sec. 357.)

Width of Front street fixed by ordinance 1146. The jurisdiction of the city extends to the middle of the channel of the Mississippi: Const. of Missouri, Art. I, sec. 1; Charter of St. Louis City, Art. I, sec. 2, and notes thereto. The harbor of St. Louis comprises the bed of the Mississippi, its channels, sloughs, bayous, bars and islands, from the mouth of the Missouri to the mouth of the Meramec river: Charter, Art. IX, sec. 3; and as to territorial jurisdiction of Harbor and Wharf Commissioner see sec. 4 of same article. The city is given power over wharves and docks: Charter, Art. 3, sec. 26, clause 4. A city has authority to establish any wharf line as a reasonable regulation respecting the harbor, which is not an arbitrary fixing of the wharf line so far from the navigable portion of the river as to amount to an unlawful interference with the rights of a riparian owner to reach the water from his land; the latter's right is limited by the power of the municipality, to whom the power is delegated by the State to make reason-

able regulations establishing a line beyond which structures shall not be erected: Gould on Waters, sec. 138; Railroad vs. Illinois, 146 U. S. 455; Prosser vs. Railroad, 152 U. S. 59; Yates vs. Milwaukee, 10 Wall. (U. S.) 497; Turner vs. People Ferry Co., 21 Fed. 94; see also Railroad vs. Stockyards, 120 Mo. 552. And see State ex rel. vs. Longfellow, 169 Mo. 109, as to obstruction of the navigation of the Mississippi river by building into the stream; and see also in general that in a navigable stream the public right is paramount, and that a city cannot grant a right operating to obstruct the navigation: West Chicago Ry. vs. Chicago, 201 U. S. 506, and Myers vs. St. Louis, 8 Mo. App. 266, s. c. 82 Mo. 367, s. c. 113 U. S. 566.

In 1853 under its Charter the City of St. Louis had power to acquire property outside its limits for wharf purposes: Hafner vs. St. Louis, 161 Mo. 34.

The city's title to the wharf property has been much litigated but the title and accretions finally determined to be in the city. See Sweringen vs. St. Louis, 151 Mo. 348 (writ of error dismissed in U. S. Sup. Ct.: 185 U. S. 38; see also Joy vs. St. Louis, 201 U. S. 332); Hafner vs. St. Louis, 161 Mo. loc. cit. 41; St. Louis vs. Mo. Pac., 114 Mo. 13; Moses vs. St. L. Sectional Dock Co., 84 Mo. 242 (south wharf).

Property may be condemned for wharf purposes: Waddingham vs. St. Louis, 14 Mo. 190. Property condemned for wharf purposes cannot be appropriated to a different and inconsistent use, nor can any part of it be disposed of by the city for private purposes: Belcher S. R. Co. vs. St. L. G. El. Co., 82 Mo. 121; s. c. 101 Mo. l. c. 200; but the maintenance of a warehouse building on the wharf, to be used in connection with a grain elevator is a use incident to a public wharf: Belcher S. R. Co. vs. St. L. G. Co., 101 Mo. 192.

If the river is diverted by the city to make a new wharf line, or by extending streets into the river, it is liable to the riparian owner as a taking of his property for public use, etc.: See Meyers vs. St. Louis, 8 Mo. App. 266 (see s. c. 82 Mo. 367; 113 U. S. 566).

By an act passed June 12, 1866, Ch. 116, sec. 9, 14 St. 63, Congress relinquished to the City of St. Louis all the right, title and interest of the United States "in and to all wharves, streets, lanes, avenues, alleys and of the other public thoroughfares" within the corporate limits; but this did not purport to authorize the city to impair the rights of other riparian proprietors by extending streets into the river: St. Louis vs. Myers, 113 U. S. 566, 567.

As to the construction of a free bridge across the Mississippi see references in note (a) to sec. 27, Chap. 4 of "Laws Specially Applicable to St. Louis," ante page 86, and case of Haeussler vs. St. Louis (Sup. Ct. in banc, 103 So. West. 1034, decided July 2, 1907).

As to the right of the city to charge wharfage, see below, note to Rev. Code, Art. 2 of this Chapter.

Sec. 346. Eastern boundary line of wharf—The eastern boundary line of the wharf as herein established shall be eastward from the base line described in section 348, and it shall be two hundred and fifty feet distant and parallel thereto from point (one) at the southern limit of the City of St. Louis to point (thirty-four A), near Franklin avenue; and from point (forty) at Mound street to point (sixty) at the northern city limit; between Franklin avenue and Mound street it shall be distant as follows: Two hundred and forty-seven feet at a point (thirty-four B), two hundred and forty-two feet at point (thirty-four C), two hundred and thirty-eight feet at point (thirty-five) Biddle street, two hundred and thirty feet at point (thirty-six) Ashley street, two hundred and twenty-five feet at point (thirty-six A), two hundred and twenty-two feet at point (thirty-seven) Smith street, two hundred and twenty-eight feet at point (thirty-eight) Florida street and two hundred and thirty-seven feet at point (thirty-nine) Mullanphy street. (Ord. 21236, sec. 1.)

See preceding note. The *Western* boundary line of the wharf was fixed in part by ord. 5403, approved Aug. 6, 1864. As to condemnation proceedings in pursuance thereof, and establishment of the wharf see facts stated in Belcher

S. & R. Co. vs. St. L. G. El. Co., 101 Mo. loc. cit. 198; and in *Moses vs. St. L. Sectional Dock Co.*, 84 Mo. loc. cit. 244-245.

This ordinance establishes the western line from a point in Biddle street northwardly to the then (1855) city limits and from Hazel (Chouteau) to the then southern limits of the city (Keokuk), making no provision from Biddle to Hazel. This ordinance was afterwards repealed by ord. 9889, approved Jan. 22, 1876, in so far as the southern portion (from Anna street, now St. George, to Keokuk street), was defined, and by the latter ordinance a new line was enacted from the north line of Anna street to the southern city limits at River des Peres. Ord. 9889 was in turn repealed by ord. 11078 (which is sec. 379 of Mun. Code 1901) and the latter ordinance again repealed by ord. 21236, though in the repeal no mention is made of M. C., sec. 379, which as stated was ord. 11078 which is in terms repealed. (All of these ordinances also fixed the eastern wharf line, but in so far as the east line goes they are repealed by ord. 21236, being secs. 346 to 351 of this Revision.) The undefined western line of the wharf in the central portion of the city (from Biddle to Chouteau) must be determined by the effect of the condemnation proceedings for that purpose (see sec. 345 and note thereto).

The eastern wharf line fixed by ordinance is identical with the outer harbor line of the system of harbor and wharf lines adopted by the United States War Department April 6, 1903, and approved by the Secretary of War.

Sec. 347. Same—distances and ordinates.—All distances given herein [secs. 346 to 351] are horizontal and all ordinates described as rectangular. (*Ib.*, sec. 2.)

Sec. 348. Same—boundary line.—Commencing at a point (one) in the southern boundary line of the city, which point is in the eastern prolongation of the line from "stone two" to "stone one," and two hundred and twenty-five feet from "stone one;" thence to a point (two) in the north line of Davis street, seven hundred and eighty feet eastward from the southwest corner of block number thirty-one hundred and eighty-seven; thence to a point (three) in the north line of Stein street two hundred and seventy feet eastward from the southwest corner of block number thirty hundred and eighty-eight; thence to a point (three A) twelve feet from the middle and on the westward side of the straight line joining the fixed point (three) with a point (four) hereinafter described; thence to a point (four) in the eastern prolongation of the south line of Kraus street one thousand and seventy feet from the northwest corner of block number thirty hundred and eight; thence to a point (five) in the eastern prolongation of the south line of Kansas street seven hundred and eighty feet from the northwest corner of block number twenty-nine hundred and seventy-six; thence to a point (five A) ten feet from the middle and on the westward side of the straight line joining the fixed point (five) with a point (six) hereinafter described; thence to a point (six) in the eastern prolongation of the north line of Dover street three hundred and fifty feet from the southwest corner of block number twenty-eight hundred and eighty-eight; thence successively to three points (six A), (six B) and (six C), in the ordinates which divide into four equal parts the straight line joining the fixed point (six) with a point (seven) hereinafter described, the said three points, in order northward, being twelve, seventeen and twelve feet westward from the said straight line; thence to a point (seven) in the eastern prolongation of the south line of Maeder street five hundred and eighty feet from the northwest corner of block number twenty-seven hundred and ninety-one; thence successively to three points (seven A), (seven B) and (seven C), in the ordinates which divide into four equal parts, the straight line joining the fixed point (seven) with a point (eight) hereinafter described, the said three points, in order northward, being fourteen, eighteen and fourteen feet westward from the said straight line, thence to a point (eight) in the eastern prolongation of the north line of Neosho street west of Broadway, one thousand four hundred and forty feet from the

southeast corner of block number twenty-seven hundred and eighteen; thence successively to four points (eight A), (eight B), (eight C) and (eight D), in the ordinates which divide into five equal parts, the straight line joining the fixed point (eight) with a point (nine) hereinafter described, the said four points in order northward, being twenty-one, thirty-four, thirty-seven and twenty-eight feet westward from the said straight line; thence to a point (nine) in the eastern prolongation of the south line of Meramec street west of Marine avenue one thousand three hundred and twenty-five feet from the northwest corner of block number twenty-six hundred and sixty-five; thence to a point (nine A) ten feet from the middle and on the westward side of the straight line joining the fixed point (nine) with a point (ten) hereinafter described; thence to a point (ten) in the eastern prolongation of the south line of Osage street eight hundred and ninety feet from the northwest corner of block numbered twenty-six hundred and twelve; thence to a point (ten A) five feet from the middle and on the westward side of the straight line joining the fixed point (ten) with a point (eleven) hereinafter described; thence to a point (eleven) in the eastern prolongation of the south line of Cahokia street one thousand two hundred and sixty [feet] from the northwest corner of block number seventeen hundred and sixty-two; thence to a point (twelve) in the eastern prolongation of the south line of President street one thousand and thirty feet from the northwest corner of block number seventeen hundred and seventy-four; thence to a point (thirteen) in the eastern prolongation of the south line of Cherokee street nine hundred and thirty feet from the northwest corner of block number seventeen hundred and eighty-seven; thence to a point (fourteen) in the south line of Utah street eight hundred and ninety feet eastward from the northwest corner of block number twenty hundred and thirty-eight; thence to a point (fourteen A) five feet from the middle and on the eastward side of the straight line joining the fixed point (fourteen) with a point (fifteen) hereinafter described; thence to a point (fifteen) in the north line of Arsenal street one thousand four hundred and twenty-five feet eastward from the southwest corner of block number twenty hundred and seventeen; thence to a point (fifteen A) five feet from the middle and on the eastward side of the straight line joining the fixed point (fifteen) with a point (sixteen) hereinafter described; thence to a point (sixteen) in the south line of Dorcas street one thousand three hundred and fifty-five feet eastward from the northwest corner of block number twenty hundred and seventeen; thence successively to three points (sixteen A), (sixteen B) and (sixteen C), in the ordinates, which divide into four equal parts, the straight line joining the fixed point (sixteen) with a point (seventeen) hereinafter described the said three points in order northward, being twenty, twenty-five and twenty feet eastward from the said straight line; thence to a point (seventeen) in the eastern prolongation of the north line of St. George street fifty-three feet from the southeast corner of block number seven hundred and seventy-six; thence to a point (seventeen A) five feet from the middle and on the eastward side of the straight line joining the fixed point (seventeen) with a point (eighteen) hereinafter described; thence to a point (eighteen) in the eastern prolongation of the south line of Victor street fifty-three feet from the northeast corner of block number seven hundred and seventy-seven; thence to a point (eighteen A) five feet from the middle and on the eastward side of the straight line joining the fixed point (eighteen) with a point (nineteen) hereinafter described; thence to a point (nineteen) in the eastern prolongation of the south line of Barton street ninety feet from the northeast corner of block number eight hundred and seventy-one; thence successively to three points (nineteen A), (nineteen B) and (nineteen C), in the ordinates which divide, into four equal parts,

the straight line joining the fixed point (nineteen) with a point (twenty) hereinafter described, the said three points in order northward, being twelve, sixteen and ten feet eastward from the said straight line; thence to a point (twenty) in the eastern prolongation of the north line of Lesperance street fifty feet from the southeast corner of block number eight hundred and sixty-six; thence to a point (twenty A) five feet from the middle and on the eastward side of the straight line joining the fixed point (twenty) with a point (twenty-one) hereinafter described; thence to a point (twenty-one) in the eastern prolongation of the north line of Carroll street one hundred and ten feet from the southeast corner of block number eight hundred and sixty-three; thence to a point (twenty-two) in the eastern prolongation of the north line of Miller street one hundred and forty feet from the southeast corner of block number eight hundred and sixty; thence to a point (twenty-three) in the eastern prolongation of the south line of Rutger street one hundred and forty feet from the northeast corner of block number eight hundred and fifty-nine; thence to a point (twenty-four) in the eastern prolongation of the south line of Convent street one hundred and twenty-seven feet from the northeast corner of block number eight hundred and fifty-eight; thence to a point (twenty-five) in the eastern prolongation of the south line of Chouteau avenue one hundred feet from the northeast corner of block number eight hundred and fifty-seven N.; thence to a point (twenty-six) in the eastern prolongation of the south line of Gratiot street seventy-two feet from the northeast corner of block number eight hundred and fifty-five; thence to a point (twenty-seven) in the eastern prolongation of the south line of Plum street eighty-four feet from the northeast corner of block number eight hundred and fifty-three; thence to a point (twenty-eight) in the eastern prolongation of the south line of Spruce street eighty-six feet from the northeast corner of block number three; thence to a point (twenty-nine) in the eastern prolongation of the south line of Elm street eighty feet from the northeast corner of block number five; thence to a point (thirty) in the eastern prolongation of the south line of Market-street seventy feet from the northeast corner of block number seven; thence to a point (thirty-one) in the eastern prolongation of the south line of Pine street forty-five feet from the northeast corner of block number nine; thence to a point (thirty-two) in the eastern prolongation of the south line of Locust street fifteen feet from the northeast corner of block number eleven; thence to a point (thirty-three) in the eastern prolongation of the south line of Washington avenue twenty-three feet from the northwest corner of block number thirteen; thence to a point (thirty-four) in the eastern prolongation of the north line of Morgan street twelve feet from the southeast corner of block number sixteen; thence successively to three points (thirty-four A), (thirty-four B) and (thirty-four C), in the ordinates which divide, into four equal parts, the straight line joining the fixed point (thirty-four) with a point (thirty-five) hereinafter described the said three points in order northward, being thirteen, twenty and fifteen feet eastward from the said straight line; thence to a point (thirty-five) in the eastern prolongation of the south line of Biddle street three hundred and twenty feet from the northwest corner of block number nineteen; thence to a point (thirty-six) in the eastern prolongation of the north line of Ashley street one hundred and twenty-six feet from the southeast corner of block number two hundred and twenty-eight; thence to a point (thirty-six A) five feet from the middle and on the eastward side of the straight line joining the fixed point (thirty-six) with a point (thirty-seven) hereinafter described; thence to a point (thirty-seven) in the eastern prolongation of the south line of Smith street two hundred and five feet from the northeast corner of block number two hundred and thirty; thence to a point (thirty-

eight) in the eastern prolongation of the south line of Florida street two hundred and twenty feet from the northeast corner of block number two hundred and thirty-two; thence to a point (thirty-nine) in the eastern prolongation of the north line of Mullanphy street one hundred and forty-seven feet from the southeast corner of block number two hundred and thirty-four; thence to a point (forty) in the eastern prolongation of the south line of Mound street one hundred and eighty-five feet from the northeast corner of block number two hundred and thirty-five; thence to a point (forty-one) in the eastern prolongation of the north line of Brooklyn street two hundred and fifty feet from the southeast corner of block number two hundred and thirty-seven; thence to a point (forty-one A) six feet from the middle and on the eastward side of the straight line joining the fixed point (forty-one) with a point (forty-two) hereinafter described; thence to a point (forty-two) in the eastern prolongation of the north line of Tyler street three hundred and eighty-five feet from the southeast corner of block number two hundred and eighty-nine E; thence to a point (forty-three) in the eastern prolongation of the north line of Madison street four hundred and thirty-seven feet from the southeast corner of block number two hundred and ninety-one E; thence to a point (forty-four) in the eastern prolongation of the south line of North Market street five hundred feet from the northeast corner of block number twenty-one hundred and forty-two; thence to a point (forty-five) in the eastern prolongation of the north line of Warren street five hundred and fifty feet from the southeast corner of block number six hundred and seventy-two E; thence to a point (forty-six) in the eastern prolongation of the north line of St. Louis avenue five hundred and eighty feet from the southeast corner of block number six hundred and sixty-eight E; thence to a point (forty-seven) in the eastern prolongation of the north line of Dock street four hundred and ninety feet from the southeast corner of block number twenty-five hundred and forty-four; thence to a point (forty-eight) in the eastern prolongation of the north line of Destrehan street four hundred and sixty feet from the southeast corner of block number twenty-five hundred and thirty-eight; thence to a point (forty-nine) in the eastern prolongation of the north line of Salisbury street four hundred and thirty-five feet from the southeast corner of block number twenty-five hundred and thirty-four; thence to a point (fifty) in the eastern prolongation of the north line of Bremen avenue three hundred and ninety-five feet from the southeast corner of block number twenty-five hundred and twenty-five; thence to a point (fifty A) ten feet from the middle and on the eastward side of the straight line joining the fixed point (fifty) with a point (fifty-one) hereinafter described; thence to a point (fifty-one) in the eastern prolongation of the north line of Angelica street two hundred and seventy feet from the southeast corner of block number twenty-five hundred and seven; thence to a point (fifty-two) in the eastern prolongation of the south line of Ferry street one hundred and fifty feet from the northeast corner of block number twenty-five hundred and six; thence successively to three points (fifty-two A), (fifty-two B) and (fifty-two C), in the ordinates which divide, into four equal parts, the straight line joining the fixed point (fifty-two) with a point (fifty-three) hereinafter described, the said three points in order northward, being thirty-five, forty-five and thirty-five feet eastward from the said straight line; thence to a point (fifty-three) in the north line of Grand avenue three hundred and ninety feet eastward from the southeast corner of block number thirty-three hundred and twenty-two; thence to a point (fifty-three A) ten feet from the middle and on the eastward side of the straight line joining the fixed point (fifty-three) with a point (fifty-four) hereinafter described; thence to a point (fifty-four) in the eastern prolongation of the

south line of Prairie avenue four hundred and twenty feet from the north-east corner of block number thirty-three hundred and thirty-four; thence successively to eight points (fifty-four A), (fifty-four B), (fifty-four C), (fifty-four D), (fifty-four E), (fifty-four F), (fifty-four G) and (fifty-four H), in the ordinates which divide, into nine equal parts, the straight line joining the fixed point (fifty-four) with a point (fifty-five) hereinafter described, the said eight parts, in order northward being forty-seven, one hundred and twenty-five, two hundred and ten, two hundred and seventy-five, two hundred and ninety, two hundred and eighty, two hundred and thirty and one hundred and forty-five feet westward from the said straight line; thence to a point (fifty-five) in the north line of Humboldt avenue two thousand and seventy feet eastward from the southeast corner of block number forty-two hundred and ten; thence successively to nine points (fifty-five A), (fifty-five B), (fifty-five C), (fifty-five D), (fifty-five E), (fifty-five F), (fifty-five G), (fifty-five H) and (fifty-five I), in the ordinates which divide, into ten equal parts, the straight line joining the fixed point (fifty-five) with a point (fifty-six) hereinafter described, the said nine points, in order northward, being one hundred and forty-seven, two hundred and sixty, three hundred and fifty, four hundred and eight, four hundred and thirty, four hundred and sixteen, three hundred and sixty-three, two hundred and seventy-eight and one hundred and fifty-five feet westward from the said straight line; thence to a point (fifty-six) in the eastern prolongation of the north line of Baden avenue two thousand nine hundred and eighty feet from the southwest corner of block number forty-two hundred and sixty-four; thence successively to eight points (fifty-six A), (fifty-six B), (fifty-six C), (fifty-six D), (fifty-six E), (fifty-six F), (fifty-six G) and (fifty-six H), in the ordinates which divide, into nine equal parts, the straight line joining the fixed point (fifty-six) with a point (fifty-seven) hereinafter described, the said eight points, in order northward, being one hundred and ten, one hundred and ninety-three, two hundred and sixty, three hundred and three, three hundred and sixteen, two hundred and ninety, two hundred and twenty-eight and one hundred and thirty feet westward from the said straight line; thence to a point (fifty-seven) in the eastern prolongation of the north line of St. Cyr avenue nine hundred feet from the southeast corner of block number forty-three hundred and thirteen E; thence successively to nine points (fifty-seven A), (fifty-seven B), (fifty-seven C), (fifty-seven D), (fifty-seven E), (fifty-seven F), (fifty-seven G), (fifty-seven H) and (fifty-seven I), in the ordinates which divide, into ten equal parts, the straight line joining the fixed point (fifty-seven) with a point (fifty-eight) hereinafter described, the said nine points, in order northward, being one hundred and thirty-seven, two hundred and forty-seven, three hundred and thirty-seven, three hundred and seventy-seven, three hundred and eighty-five, three hundred and sixty-seven, three hundred and seven, two hundred and twenty-three, and one hundred and fifteen feet westward from said straight line; thence to a point (fifty-eight) in the southern prolongation of the line which coincides with the west face of the coping on the east wall of the settling basins at the Chain of Rocks, the said point being three thousand two hundred and forty-five feet from the north face of the coping on the south wall of settling basin number six; then successively to thirteen points (fifty-eight A), (fifty-eight B), (fifty-eight C), (fifty-eight D), (fifty-eight E), (fifty-eight F), (fifty-eight G), (fifty-eight H), (fifty-eight I), (fifty-eight K), (fifty-eight L), (fifty-eight M) and (fifty-eight N), in the ordinates which divide, into fourteen equal parts, the straight line joining the fixed point (fifty-eight) with a point (fifty-nine) hereinafter described, the said thirteen points, in order northward, being one hundred and seventy-five, three hundred and forty, four hundred and eighty-three, six

hundred and ten, seven hundred and three, seven hundred and sixty, seven hundred and eighty-seven, [and], seven hundred and eighty-seven, seven hundred and fifty, six hundred and seventy-five, five hundred fifty-five, four hundred, and two hundred and twelve feet eastward from the said straight line; thence to a point (fifty-nine) in the northern prolongation of the line which coincides with the west face of the coping on the east wall of the settling basins at the Chain of Rocks, the said point being one thousand two hundred and fifteen feet from the south face of the coping on the north wall of settling basin number one; thence successively to four points (fifty-nine A), (fifty-nine B), (fifty-nine C) and (fifty-nine D), in the ordinates which divide, into five equal parts, the straight line joining the fixed point (fifty-nine) with a point (sixty) hereinafter described, the said four points, in order northward, being thirty, sixty-five, eighty-seven and sixty feet westward from the said straight line; thence to and ending at a point (sixty) in the northern boundary line of the city in the eastern prolongation of the line "stone one hundred and seventy-two" to "stone one hundred and seventy-four," "one hundred and seventy" feet from "stone one hundred and seventy-four." (*Ib.*, sec. 3.)

Sec. 349. Building over wharf line—penalty.—Any person, firm or corporation who shall build or extend any dike, trestle-work, elevator or other structure east of the eastern boundary line of the wharf as above established, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty nor more than five hundred dollars. (*Ib.*, sec. 4; compare M. C., sec. 380.)

Sec. 350. Same—notice to remove—penalty for non-compliance.—It shall be the duty of the Harbor and Wharf Commissioner to give written notice to the party violating the provisions of the preceding section, to remove such structure at his own expense within ten days, and his failure, neglect or refusal to comply with said notice shall be deemed a misdemeanor and upon conviction thereof shall be fined not less than fifty nor more than five hundred dollars, and every day after the expiration of the period of ten days during which said party shall fail, neglect or refuse to comply with the terms of the aforesaid notice shall constitute a separate offense. (*Ib.*, sec. 5.)

Sec. 351. Repeal of former ordinances.—Ordinance eleven thousand and seventy-eight entitled, "An ordinance to establish the eastern boundary of the wharf from the north line of Anna street southwardly to the southern city limits, and to repeal ordinance nine thousand eight hundred and eighty-nine," approved July first, eighteen hundred and seventy-nine, and that part of ordinance five thousand four hundred and three, approved August sixth, eighteen hundred and sixty-four, defining the eastern boundary line of the wharf from the northern line of St. George street (Anna street) to Chouteau avenue (Hazel street) and from Biddle street to the northern limits of the city, established anno domini eighteen hundred and fifty-five, are hereby repealed. (*Ib.*, sec. 6.)

Sec. 379 of M. C. corresponds to ord. 11078, repealed as above by ord. 21236, sec. 6, but the repealing ordinance does not refer to the Mun. Code, sec. 379.

Sec. 352. Where water craft shall be moored.—All water craft of whatever kind coming into the harbor of the city shall be moored at such points or places at the wharf or landing as may be designated therefor by the harbor and wharf commissioner, but no boat or raft of any kind what-

ever shall be landed in front of the city water works building. (M. C., sec. 358.)

Sec. 353. Boats unemployed—when and where to be.—The owners or persons in charge of any boat moored as in the preceding section provided, not engaged in receiving or discharging freight, shall, on order of the harbor and wharf commissioner, in writing forthwith move said boat to such other place in the harbor as he may designate, there to remain until such time as it may be desired for said boat to return to the wharf to load. (M. C., sec. 359.)

Sec. 354. Boat in danger may be moved.—Any boat while engaged in receiving or discharging freight may, at any time, be required to forthwith leave the paved wharf by order of the harbor and wharf commissioner, if, in his opinion, said boat is in danger of being injured by fire or ice. (M. C., sec. 360.)

Sec. 355. Proceedings where boats are wrecked.—If any boat, except ferry boats and wharf boats, sink in the harbor of St. Louis, and the wreck shall be an obstruction to the harbor or wharf, the harbor and wharf commissioner shall at once notify the owners or parties in charge of said boat and cargo, if any, and shall designate a certain time for the removal of said obstruction by said owners or parties in charge, and if the owners or parties in charge of the wreck and cargo refuse or neglect to remove said obstruction within the time designated by the harbor and wharf commissioner, the harbor and wharf commissioner shall forthwith proceed to remove said obstruction. Any property saved from said wreck by the harbor and wharf commissioner in removing said obstruction, including cargo, furniture, engine, hull, tackle and apparel of the sunken boat, shall be sold by him at public auction, after giving three days' notice in the paper doing the city printing, to the highest bidder for cash. From the proceeds of the sale the harbor and wharf commissioner shall retain the costs and expenses of removing, saving and selling said wreck and cargo, and twenty per centum of the balance as salvage, and the remainder, if any, shall be paid into the city treasury as a special fund, subject to the rights of the owners thereof, and the general law in such case made and provided. The money retained for expenses and salvage shall be paid into the city treasury and be credited to the harbor fund. (M. C., sec. 361.)

The city cannot make a valid contract to do that for pay which is cast upon it as a public duty, such as keeping the harbor free from obstructions and wreckage; but it may contract for such things as are not necessarily required to be done as a public duty, although in the doing thereof there is an incidental benefit to the public, such as the lifting of a private sunken boat out of the water by pumping the water out of the hold, and a non-performance of such contracts subjects the city to damages: *The Maggie P.*, 25 Fed. (C. C.) 202, 205.

Sec. 356. Boats grounded—penalty for suffering to remain.—Every owner or person in charge of any boat or water craft of any kind, who shall suffer the same to ground at the wharf or landing, and remain grounded, through neglect, for a longer period of time than twenty-four hours, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than fifty nor more than one hundred dollars. (M. C., sec. 362.)

Sec. 357. Boats—names of to be painted on—penalty.—All boats of whatever kind—coal flats, skiffs and yawls excepted—landing

at the wharf or landing shall have a name painted on some conspicuous part of such boat, with letters at least six inches long, and placed so that it can be easily read from either side. Every person who may be guilty of landing any boat without a name painted thereon, as above required shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in the sum of not less than five nor more than fifty dollars; Provided, that any person landing a boat within the harbor without a name shall not be liable therefor if he causes a name to be painted on said boat, as required, within three days from the time of its arrival at the landing and before it leaves the same. (M. C., sec. 363.)

Sec. 358. Steamboats to have preference at landing.—Steamboats shall have preference in landing at the wharf or landing over other vessels or over rafts; but no vessel or raft shall, while discharging or receiving cargo or being broken up, be compelled to leave its place to give room for a steamboat. (M. C., sec. 364.)

Sec. 359. Commissioner to set apart landings.—The harbor and wharf commissioner is hereby instructed to set apart a sufficient and convenient number of landings to accommodate the different wants of business. (M. C., sec. 365.)

Sec. 360. Regulations for removal of property from wharf—penalty for violation.—Everything landed on the public wharf, or landing, except as hereafter provided, shall be removed therefrom within forty-eight hours after being landed, unless the same shall have been landed for reshipment, in which case it shall be removed within seventy-two hours after being landed. Cotton, hay, hemp, coal oil, petroleum and all the products of petroleum shall be removed from the wharf or landing within twenty-four hours after being landed. All timber, boards, hoop-poles, scantlings, joists, shingles, wagonmakers' and coopers' stuff and lumber of every description brought to the city by steamboat or other water craft and landed upon the public wharf or landing shall be removed therefrom within thirty days after being landed, except when landed upon that portion of the wharf situated between the north line of Carr street and the north line of Chouteau avenue, and from it shall be removed within fifteen days after being landed. Any owner, agent or consignee of goods, wares, merchandise or other thing who shall have suffered the same to remain on the wharf or public landing longer than above allowed, and who shall fail to remove the same forthwith when so ordered by the Harbor and Wharf Commissioner or his assistant or deputy, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than fifty dollars. (Ord. 21720, amending M. C., sec. 366.)

Sec. 361. Removals from wharf—order for, to be directed to marshal.—Whenever the harbor and wharf commissioner shall find that any goods, wares, merchandise, or other thing remaining on the wharf or public landing beyond the time allowed by the preceding section are an obstruction of the wharf or public landing, the removal of which is desirable as a matter of public convenience or necessity, he shall immediately give the city counselor information thereof in writing, describing the goods, wares, merchandise or other thing forming the obstruction and their location on the wharf or public landing, and the city counselor, upon the receipt of such information, shall forthwith prepare a written order for the removal of said obstruction, which shall be signed by the mayor and city counselor and directed to the city marshal, who shall immediately proceed to execute the same. (M. C., sec. 367.)

Sec. 362. Notice to be given to owners of goods.— Upon the receipt of any such order, so signed, the city marshal shall give to the owners, agents or consignees of the goods, wares and merchandise or other thing forming said obstruction at least five days' notice, in writing, to the effect that if said goods, wares, merchandise or other thing are not removed upon the expiration of the time mentioned in said notice, he will seize the same and sell the same at public vendue for cash to the highest bidder. If, after diligent search, the city marshal is unable from any cause to find any of the owners, agents or consignees of the goods, wares, merchandise or other thing forming said obstruction, he shall immediately give such notice by publication for five consecutive days in the paper publishing the journal of the Municipal Assembly, and said notice, when so published, shall be directed to all of the owners, agents or consignees of said goods, wares, merchandise or other thing who are known to the city marshal, and shall contain a brief description of the property belonging to or in charge of persons who are absent or unknown. (M. C., sec. 368.)

Sec. 363. Goods not removed to be sold.—If, upon the expiration of the time mentioned in such notice so served the goods, wares, merchandise or other thing forming the obstruction are not removed the city marshal shall forthwith proceed to remove the same to some suitable place, and shall sell them at public vendue to the highest bidder for cash; from the proceeds of said sale the city marshal shall retain and pay the costs and expenses of removing, advertising and selling said property, and the balance, if any, shall be paid into the city treasury as a special fund, subject to the rights under the law of the owners of said property; but in case the proceeds of such sale are insufficient to pay the costs and expenses aforesaid, then the deficiency shall be paid by the city out of any fund available for cleaning levee and removing obstructions from the wharf and harbor. (M. C., sec. 369.)

Sec. 364. Boats lying over night—how secured.—All boats lying at the wharf or public landing within the harbor of the city over night shall be secured to the fastenings on the wharf, or to the wharf-boats by a good and sufficient iron head chain to each boat; and the master, owner or person in charge of any boat not so secured shall be deemed guilty of a misdemeanor and liable to a fine of not less than fifty nor more than one hundred dollars. (M. C., sec. 370.)

Sec. 365. Boats on fire—casting loose of—penalty.—Any person who shall cast loose the fastenings of, or set adrift any steamboat or wharfboat or other water craft which may be on fire in the harbor of St. Louis, unless by order of the mayor, harbor and wharf commissioner or chief of the fire department, shall be deemed guilty of a misdemeanor and shall, on conviction, be fined in a sum not less than fifty nor more than one hundred dollars. (M. C., sec. 371.)

Sec. 366. Articles of value—penalty for injury or stealing.—Any person who shall cut, tear, rip, bore or open any bag, sack, bale, box, barrel or other package being the property of another, containing any article of value, or who shall steal, take or carry away any article of value and of less value than twenty dollars, the property of another, or who shall secrete or hide away or knowingly purchase, barter or trade for any article of value and of less value than twenty dollars, knowing the same to have been stolen or acquired in a questionable or surreptitious manner within the limits of the city, shall be deemed guilty of a misdemeanor and upon

conviction thereof before either of the police justices shall be fined not less than five dollars nor more than five hundred dollars; provided, however, that nothing contained in this section shall be held to apply to a case where the facts given in evidence amount in law to a felony. The harbor and wharf commissioner and the market masters and their deputies are hereby authorized and empowered to arrest and hold for trial all persons offending against the provisions of this section. (M. C., sec. 372.)

The provisions of this section unless intended to apply only to property on the wharf, seem rather too broad to be appropriate in this chapter on Harbor and Wharf Department, and should, it would seem, have been placed under the chapters on misdemeanors. See note next below, where the municipal assembly have recently enacted another ordinance, directing that the same succeed this section (which was sec. 372 of the Municipal Code), which new ordinance has nothing to do with the subject matter of this chapter.

[Sec. 366a. **Taking wagon or automobile from shelter.***]

*This section (366a) could not be included in the Revised Code because it was not enacted until after the submission of the revising ordinance to the municipal assembly (although before the passage thereof), so could not be worded to amend the Revised Code. It therefore refers to the prior (Municipal) Code, and in its regular order would have been inserted at this, as the corresponding point in the Revised Code, although why this and the preceding section should be placed in the chapter on Harbor and Wharf Regulations is difficult to conceive; see preceding note. This section was probably enacted to succeed 372 of the Municipal Code by an oversight on the part of the Municipal Assembly. But having been so passed it is therefore given in this note:

(22739)

An ordinance to amend Chapter Ten, Article One, of the Municipal Code, by adding thereto a new section, to be known as Section Three Hundred and Seventy-two A.

Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section One, Chapter Ten, of Article One, of the Municipal Code, is hereby amended by adding thereto a new section to be known as Section Three Hundred and Seventy-two A, as follows:

Section Three Hundred and Seventy-two A. Any person who shall steal, take or drive away from any stable, garage or shelter any wagon or automobile or other vehicle not his own property, without the consent or order of the owner thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than one hundred dollars.

Approved February 5th, 1907.

Sec. 367. Obstruction of wharf—penalty for.—Every person who shall place or dump upon the wharf, or place or dump into the Mississippi River in front of said wharf, within five hundred feet of the western shore of said river, any nuisance, incumbrance or impediment, or stop at any landing within this city between Ferry street north and Arsenal street south any driftwood in said river, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in a sum not less than ten nor more than two hundred dollars. Nothing in this section contained shall affect any order or action of the Board of Health in the removal of slop or dead animals. (M. C., sec. 373.)

Sec. 368. Obstructions—non-removal of—penalty for.—The obstructions mentioned in the preceding section shall be removed forthwith by the persons or parties causing the same, and if said persons or parties fail to remove such obstructions within the time designated therefor by the harbor and wharf commissioner or his assistant or deputy, they shall

be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than five nor more than one hundred dollars. (M. C., sec. 374.)

Sec. 369. Excavations prohibited.—No person shall make an excavation on the public wharf, nor shall any person take up paving stones for the purpose of setting a spar or for any other purpose without permission or authority from the harbor and wharf commissioner, except parties desiring to make or repair connections with water pipes, gas pipes or sewers laid on the wharf or Front street, who shall apply to the street commissioner for a permit to excavate for that purpose, and shall comply with all the provisions and regulations established for excavations on streets, alleys or public highways. (M. C., sec. 375.)

Sec. 370. Wharf—repairs of pavement.—Whenever the pavement of any sidewalk on the wharf or Front street is out of repair, the fact shall be reported to the street commissioner, who shall cause the necessary repairs to be made at the expense of the owners of the property fronting on said sidewalk, in the same manner as provided for by ordinance for repairs of sidewalks on other streets. (M. C., sec. 376.)

Sec. 371. Violations of provisions of article—how punished.—Every person who shall fail to obey the directions of the harbor and wharf commissioner, or his assistant, or any of his deputies, in relation to any matter over which they have charge, or shall, in any manner, violate or fail to comply with any of the provisions of this article in cases where no special penalty or fine is prescribed, shall be deemed guilty of a violation of this article, and shall, upon conviction thereof, be fined in a sum of not less than five nor more than one hundred dollars. (M. C., sec. 377.)

Sec. 372. Fines, etc.—to be credited to harbor fund.—All fines, forfeitures and penalties imposed and collected for the violation of any of the provisions of this article shall be credited to the account of the harbor fund. (M. C., sec. 378.)

See Charter, Art. IX, sec. 7.

ARTICLE II.

OF WHARFAGE.*

*Ord. 21911, sec. 2, repealed sections of the Municipal Code numbered 382, 383, 384, 385, 388, 389, 390, 391, 392, 393, 395, 396, 397, 398 and 420.

The City of St. Louis, owning improved wharves at its own cost, for the benefit of those engaged in commerce upon the navigable waters, may charge and collect from parties using its wharves and facilities such reasonable fees as will pay for the use of the same: *Packet Co. vs. St. Louis*, 100 U. S. 423, following *Packet vs. Keokuk*, 95 U. S. 80; and in *Vicksburg vs. Tobin*, 100 U. S. 423, it was "adjudged that the wharfage fee was valid although imposed on a boat that did not land immediately against the wharf, but against a wharf-boat which was against the wharf, the court holding that to use the wharf boat under those conditions was to use the wharf": quoted and distinguished by Valiant, J., with other cases in *St. Louis vs. Coal Co.*, 158 Mo. 348.

But the city's rights in respect of its wharves more nearly resemble proprietary rights than sovereign rights, and the city cannot collect wharfage for goods landed beyond its wharves because of high water, since the wharves are of no service in such case: *St. Louis vs. Lumber Co.*, 13 Mo. App. 56, 59.

And a city cannot charge tonnage tax or wharfage dues, on a vessel landing on the natural bank of the river, where the wharf is not improved, although the landing be within the wharf limits established by ordinance: *Cape Girardeau vs. Campbell*, 26 Mo. App. 11, holding also that a landing place does not become a wharf by so designating it in an ordinance, but to become such it must be improved for that purpose, relying on *Packet Co. vs. Keokuk*, 95 U. S. 80, 85, and *Packet Co. vs. St. Louis*, 100 U. S. 423, 429. The state's rights are subject to the rights of the Government and the admiralty jurisdiction of the U. S. courts: *Packet Co. vs. St. Louis*, 4 Dillon 10.

So also an ordinance attempting to impose a license on tugs and barges for the privilege of towing boats into or about the harbor (*Mun. Code*, sec. 395, since repealed) which tugs and barges are licensed under the laws of Congress for the coasting trade and engaged in transporting freight between Missouri and Illinois, is in violation of the provisions of the U. S. Constitution regulating commerce (*Art. 1, sec. 8*) and prohibiting a state from laying any duty or tonnage without the consent of Congress: *St. Louis vs. Coal Co.*, 158 Mo. 342, the court considering itself bound by *Harman vs. Chicago*, 147 U. S. 396, decided shortly after the first appeal in the *Consolidated Coal Co.* case, the court calls attention that the St. Louis ordinance was not to charge wharfage for the use of the wharf but a license, although such license was in lieu of wharfage (*p. 351*).

On the first appeal the particular constitutional question passed on in the second appeal, was not raised, it being held in that case that a foreign corporation having its principal office in St. Louis where it registered its boats under the U. S. registry laws, and returns them and lists them for taxation under the ordinance, was entitled to a forty per cent reduction provided in favor of vessels owned by residents of St. Louis and returned and assessed for taxation within said city during the year specified in the ordinance and that such an ordinance was constitutional: *St. Louis vs. Coal Co.*, 113 Mo. 83. And in *St. Louis vs. Transp. Co.*, 84 Mo. 156, it was held that such ordinance which allowed a lesser rate than otherwise, if the return and assessment for taxation was made during the year commencing first of August immediately preceding the day of landing, did not operate so as to require the lesser rate although the boat was new and touched for the first time so that it was impossible for the owner to have made the return, etc., on the preceding first day of August; the court construing the ordinance (now repealed) as not imposing the higher rate as a penalty for failure, etc., but as a classification for wharfage tax.

The right to fix the rate of wharfage cannot be delegated by a city; and a contract undertaking so to do is void: *Matthews' vs. Alexandria*, 68 Mo. 115. The state may repeal the city's right to collect wharfage: *St. Louis vs. Shields*, 52 Mo. 351.

As to right to require license from ferries see note to *Rev. Code*, secs. 413, 427.

Sec. 373. Reports for wharfage purposes to be made.—The harbor and wharf commissioner shall register in a suitable book the name and tonnage of every water craft, and the port from which it last came, the date of departure and destination. The harbor and wharf commissioner shall submit to the comptroller and auditor on the Monday before the second Tuesday of every month a list of all persons or corporations who have been charged for the use of the public wharf. (*Ord. 21911, sec. 1; amendment of M. C., 281.*)

Sec. 374. Wharfage on lumber and logs brought in rafts.—The following amounts shall be collected for wharfage on the articles hereinafter designated when brought to the public wharf or landing by raft: On boards, planks, scantling or joists and dimension timber, ten cents per thousand feet, board measure; on shingles and lath, three cents per thousand; on palings in bundles, ten cents per thousand; on hoop-poles, clap-boards, staves and all descriptions of coopers' and wagon makers' stuff, and all similar material, loose or in bundles, ten cents per one hundred cubic feet; on cedar and other posts and all descriptions of rough lumber or timber not otherwise rated, ten cents per one hundred cubic feet; on logs in

rafts, two and one-half cents per one hundred superficial feet of raft. The above rates of wharfage shall be charged on all lumber, logs and articles enumerated in this section, unloaded upon the wharf from railroad cars. (M. C., sec. 386.)

Sec. 375. Firewood—rates of wharfage.—There shall be collected a wharfage of ten cents on each and every cord of firewood brought to this city by boat, rail, or raft, and unloaded on the public wharf, either before or after the same is unloaded from boat, rail or raft, with the permission that the same may remain on the wharf a length of time not exceeding thirty days; and whenever the same shall remain longer than thirty days, it shall be required to pay five cents per cord in advance every thirty days for the time it may so remain. (Ord. 21911, sec. 1; amend. M. C., sec. 387.)

See in connection herewith also sec. 397 R. C.

Sec. 376. Wharfage — when due and collectible.—Wharfage chargeable on firewood, lumber, timber and logs, or other articles in boats or craft, is due and chargeable at any time before said boat is unloaded, or said raft is broken up. (Ord. 21911, sec. 1; amending M. C., sec. 394.)

Sec. 377. Penalty for failing to pay license of warfage.—Every owner or person in charge of any boat, firewood, lumber, timber, logs or other articles on which wharfage or license is due, who shall, after demand has been made, fail or refuse to pay the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum double the amount of wharfage or license so due or owing. The payment of said fines and costs shall operate as a discharge in full of said demands. (M. C., sec. 399.)

Sec. 378. Landing places for coal, etc., to be set apart.—The harbor and wharf commissioner shall be authorized to set aside a number of landing places for coal, sand, gravel or stone or similar materials. Parties using such landings shall pay for the use thereof an annual rent of not less than two dollars per front foot, payable monthly in advance; but no landing privilege shall be granted at a lower rental than twenty-five dollars per month, and in consideration of such payment shall have the privilege to maintain at said landing a float or wharf-boat, connected with the wharf by one or more stages, and also to use the wharf for the distance rented for the storage of coal, sand, gravel, stone or other similar material, whenever, in the opinion of the harbor and wharf commissioner, such storage does not interfere with the general traffic and business of the levee. For every float or wharf-boat maintained under authority of this section the party maintaining the same shall execute to the city a bond in the penal sum of one thousand dollars, with not less than two good and sufficient sureties, owners of unincumbered real estate in the city, conditioned that the said float or wharf-boat shall at all times be good, safe and seaworthy, and that in case of sinking of said float or wharf-boat from any cause the same or wreck thereof shall be removed forthwith from the landing at the expense of the party having maintained said float or wharf-boat, so that the same shall offer no obstruction to the harbor. (M. C., sec. 400.)

Wharfboats' bonds, see sec. 384.

Sec. 379. Unimproved wharf—conditions of lease of.—The municipal assembly may, by ordinance, set aside or lease portions of the unimproved wharf for special purposes, such as the erection of sheds, elevators and warehouses, and for railroad tracks, for quay places, for the

landing of lumber from mills, for cotton presses, for manufactories and for any purpose tending to facilitate the trade of the city; but no permit to use any portion of the wharf, or any lease of the same, shall be granted for a term exceeding fifty years. All leases of portions of the public wharf, granted by the municipal assembly, unless especially provided otherwise by ordinance, shall give to the lessees the use and control of the ground leased, subject to the conditions that the lessee shall at all times leave an unobstructed roadway of at least twenty feet in width for public travel along the wharf. No lease of any portion of the public wharf shall exempt steamboats, barges, rafts or any other water craft landing thereat from the payment of wharfage dues established in this article, except in case such exception is especially provided by ordinance. (M. C., sec. 401.)

See in connection herewith sec. 383 *infra*. The city cannot lease out its wharves for private purposes: Belcher S. & Ref. Co. vs. St. L. G. El. Co., 82 Mo. 126; s. c. 101 Mo. 192. But it has power "to set aside or lease portions of the unpaved wharf for special purposes," designated in the charter (Art. III, sec. 26, clause 4), and it is held that the maintenance of an elevator for grain, etc., on the wharf to be used in connection with the business of a concern is a use incident to a public wharf and a lease for that purpose by the city valid: Belcher S. & R. Co. vs. St. L. G. E. Co., 101 Mo. 192, 200 *et seq.* This case also holds that "unpaved wharf" applies to any portion not paved in a manner suitable for receiving and discharging passengers or freight.

Sec. 380. Temporary use of wharf—when permitted.—The harbor and wharf commissioner and comptroller are hereby authorized and directed to allow portions of the public wharf and river bank not immediately needed for general public uses to be temporarily used and occupied on such terms and conditions as they shall deem proper. No agreement of rent made under authority of this section shall be binding for a longer period than one month, and the amount of rent shall always be collected in advance for the entire length of time for which the agreement is made. Nothing in this section, however, shall be so construed as to prohibit at the expiration of such agreement its renewal for another period not exceeding one month. (M. C., sec. 402.)

Sec. 381. Dunnage business may be carried.—Any person or copartnership or persons may carry on the dunnage business at the wharf; provided, that such person or persons pay for each skid kept by them on the wharf the sum of six cents per annum, to be paid semi-annually in advance on the first days of April and October of each year. The harbor and wharf commissioner shall at all times have control over and regulate the amount of space occupied for depositing skids and other apparatus. (M. C., sec. 403.)

Sec. 382. Docks and landing appliances—owners to give bond.—No privilege shall be granted to station or to maintain at the public wharf or landing any dry docks, wharfboat, flat, float or landing appliance whatever until the applicant for such privilege shall have executed a good and sufficient bond, with approved sureties, conditioned that in the event of the grounding or sinking from any cause any of the above mentioned docks, wharfboats, flats or landing appliances the owner or owners thereof shall, at his or their expense, at once remove the same, so that it shall not in any way obstruct the city harbor or wharf. When the amount of the bond required as above specified is not otherwise established by ordinance, the comptroller and harbor and wharf commissioner are hereby authorized to determine and fix the same; provided, however, that one thousand dollars shall be the minimum amount of any bond required. [Loaded barges and scows coming within the harbor may, by paying full wharfage

as prescribed in this chapter, be permitted to land and remain at a designated place for a specified time, and afterwards come to the wharf and unload free of charge for new wharfage.] (M. C., sec 405.)

The last portion of this section provided in the Mun. Code that "Loaded barges and scows coming within the harbor may, by paying full wharfage as prescribed by section 382 be permitted to land and remain at a designated place for a specified time, and afterwards come to the wharf and unload free of charge for new wharfage, *subject, however, to the provisions of section 383.*" Sec. 382 fixed the wharfage dues and sec. 383 made certain exceptions for excursion boats, but both were repealed by ord. 21911, and no corresponding provision inserted in lieu thereof, except perhaps what is now secs. 397, 375, so that that portion of the section is practically obsolete.

Sec. 383. Lease of unimproved wharf—conditions of ordinance for.—No ordinance shall be introduced in either branch of the municipal assembly ordaining the leasing of the unimproved public wharf of the city where a lease is asked for a period of time longer than five years, unless the following condition has been complied with as hereinafter [herein before, in sec. 379] provided in this article as follows: Any person, firm or corporation desiring to lease from the city any part of the unimproved public wharf for a longer period of time than five years shall make written application to the harbor and wharf commissioner, specifying in the application the name of the person, firm or corporation asking the lease, the yearly price to be paid, the number of years wanted, the location and boundaries, with a correct plat annexed to the application, the purpose for which it is to be used or occupied. When this has been done, it shall be the duty of the harbor and wharf commissioner, on the same day application is made, to record in his office book a copy of the application and give to the applicant a duplicate copy of such application, who shall, within two days from the time of receiving the duplicate copy, cause the same, at his or their expense, to be published in the daily newspaper authorized by ordinance to do the city printing, ten times consecutively. He or they shall also, on the first day on which the advertisement appears, furnish the comptroller a copy thereof. When this has been done the harbor and wharf commissioner shall certify on the proposed lease ordinance that the provisions of this section have been complied with. All ordinances or parts of ordinances in conflict with this section are hereby repealed. (M. C., sec. 406.)

Sec. 383 should be read in connection with sec. 379, which it was originally intended to supplement.

ARTICLE III.

OF WHARFBOATS.*

*For charter authority for the provisions of this article see Charter, Art. IX, secs. 8-10.

Sec. 384. License—how obtained—Bond, etc.—Any person or persons, corporation or company entitled by the terms of this article to moor a wharfboat at the landing, and desiring to do so, shall make a written application to the harbor and wharf commissioner therefor, in which shall be stated the name or style of the firm or company making such application, the names, number and tonnage of the boats owned by them, for which said wharfboat is to be used, and the trade in which said boats are to be employed. Said application shall be accompanied by a sworn statement of the names of the owners of the wharfboats and boats, and the exact proportion owned by each person in said wharfboat or boats respectively, which application and statement shall be filed with the register. The party or parties desiring to keep and use such wharfboat shall, before mooring

the same at the wharf, execute to the city a bond in the penal sum of twenty thousand dollars, with good and sufficient security, who shall be owners of unincumbered real estate in the city, to the satisfaction and approval of the Mayor, conditioned that said wharfboat shall at all times be good, safe and seaworthy, and supplied constantly with at least one good force pump, and one hundred and fifty feet of hose, which shall always be in good order and ready for use; that the owner or party representing said wharfboat will strictly comply with all ordinances that may be passed for the government of wharfboats and the collection of wharfage and wharf rent; that in case of the sinking of said wharfboat from any cause, the same, or the wreck thereof, shall be removed forthwith from the landing at the expense of the owner or representative of said wharfboat, so that the same shall offer no obstruction to the harbor. (M. C., sec. 407.)

See also sec. 379.

Sec. 385. Storage or forwarding charges not to be made.—No person keeping or interested in a wharfboat shall be allowed to charge for the storage or forwarding of any freight or merchandise passed over said wharfboat, nor to receive any commission on said freight or merchandise, nor to charge directly or indirectly any transient or other boats for the privilege of landing at said wharfboat, nor shall any packet boat having wharfboat privileges be allowed to receive freight at any other place on the paved wharf than in front of its respective wharfboat, unless with the consent of the harbor and wharf commissioner. Any person, association or company violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall pay to the city a fine of not less than two hundred fifty dollars for each offense, and the said commissioner shall report every such violation to the city attorney. (M. C., sec. 408.)

But see Charter, Art. IX, sec. 9, imposing (for some of the same offenses prohibited in sec. 385) a penalty of fifty dollars. If the provisions are in conflict of course the Charter would prevail as the paramount law.

Sec. 386. Wharfboats—how fastened.—All wharfboats moored at the wharf shall be so fastened that their chains, cables, stages and crabs shall offer the least possible obstruction to the free passage of drays and wagons. The harbor and wharf commissioner shall designate the place at the wharf where each wharfboat shall lie, and wharfboats shall remove to any other place at the wharf whenever the harbor and wharf commissioner shall so direct. (M. C., sec. 409.)

Sec. 387. Barges may have wharfboat privileges.—Any person or persons, corporation or company transporting general merchandise upon barges by means of steam tow-boats to and from this port may avail themselves of the provisions of this article in regard to wharfboats, on the same terms and conditions as are applied to steamboats regularly carrying freight and passengers. (M. C., sec. 410.)

Sec. 388. Annual rent rates.—wharfboats not to affect dues.—All persons, owners of wharfboats, having wharfboat privileges shall pay an annual rental to the city of one dollar fifty cents for each front foot of wharf or landing that may be so occupied. No wharfboat over four hundred feet long shall be allowed at the paved wharf. The above wharf rent shall be paid semi-annually in advance. The mooring of any wharfboat shall not affect in any manner the wharfage or state or city taxes, dues or levee rates assessed or levied on any steamboat or other water craft landing

thereat, but such wharfage tax, dues or rates shall be collected from each boat landing at any wharfboat as though said wharfboat was not there. (M. C., sec. 411.)

Latter part of section is the same as Charter, Art. IX, sec. 10.

Sec. 389. Stages to connect wharfboat with wharf.—Every wharfboat shall at all times be connected with the wharf by at least two stages, of such size and strength that loaded drays and wagons may safely drive over the same to and from said boat, and every wharfboat shall have sufficient breadth of beam and strength of deck to receive on board at any time at least three loaded two-horse drays or wagons, with room for said vehicles to load and unload, and pass and repass; provided, that the wharfboat belonging to the Naples and Peoria Packet Company now moored at the wharf is exempted from the provisions of this section; and, provided further, that wharfboats from one hundred to four hundred feet in length shall not be permitted to lie at their regular landing place with a less space than thirty feet between said wharfboat and the water line on the landing in front of said wharfboat; and wharfboats from two hundred to four hundred feet in length shall not be permitted to lie at their regular landing place with a less space than fifty feet between said wharfboat and the water line on the landing in front of said wharfboat. (M. C., sec. 412.)

Sec. 390. Removal of wharfboat—when for failure to comply with article.—Every person or persons, corporation or company, the owner or owners of any wharfboat now moored to and using the paved wharf of the city, shall forthwith comply with the provisions of this article, and on failure to do so shall subject themselves to the liabilities of this article, and the harbor and wharf commissioner shall remove or cause to be removed said wharfboat. (M. C., sec. 413.)

Sec. 391. Rent unpaid, privilege of wharfage denied.—Any person or persons, corporation or company that are, now, or may be hereafter, the owners of a wharfboat, and who are now, or hereafter shall be in arrears to the city for wharfage rent shall not be allowed to avail themselves of the privileges of this article, so long as such wharfage rent remains unpaid, nor shall such wharfboat or wharfboats be allowed or permitted to remain at the paved wharf of the city, but the harbor and wharf commissioner is authorized and hereby required to remove or cause to be removed such wharfboat or wharfboats from the paved wharf, and for that purpose may call to his aid the police force of the city. (M. C., sec. 414.)

Sec. 392. Penalty for violating article.—Every person who shall moor or continue a wharfboat within the city contrary to the provisions and requirements herein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty nor more than one hundred dollars for each offense, and each day's continuance of such violation of the provisions of this article shall constitute a separate misdemeanor or offense. (M. C., sec. 415.)

ARTICLE IV.

OF WOOD

Sec. 393. Districts designated.—For the purpose of receiving, ranking and measuring cordwood and collecting wharfage thereon the city is

hereby divided into two districts; all that part of the city lying south of the center of Market street shall compose the southern district, and all that part of the city lying north of the center of Market street shall compose the northern district. (M. C., sec. 416.)

Sec. 394. Deputy commissioner to act as woodmaster.—The harbor and wharf commissioner shall appoint one of his deputies to the special charge and control of each of said districts, who shall respectively perform the duties heretofore performed by the woodmaster, as provided by this chapter. (M. C., sec. 417.)

Sec. 395. Duties of deputies.—It shall be the duty of the deputy and wharf commissioner appointed as provided by section 394, to superintend and direct the landing of all firewood brought to the city by water or rail, and landed on the wharf or landing, and to cause the same to be piled up in a close and compact manner, and to exercise, under the control of the harbor and wharf commissioner, general supervision over the wharf or landing in relation to firewood landed thereon. They shall, whenever requested by the harbor and wharf commissioner, inform him of the quantity of firewood on the landing, and the length of time it has remained thereon, and the amount of wharfage, if any, due on the same. (M. C., sec. 418.)

Sec. 396. Selling wood at the original measurement, which has been removed from cord, a misdemeanor.—Any person who shall remove any wood from the cords after the same shall have been measured, and shall thereafter sell or offer to sell the same at its original measurement, and any wood having been previously measured which is exposed in ranks upon the public wharf shall be deemed as offered for sale, or any person who shall remove wood from the wharf before the payment of wharfage therefor, shall be deemed guilty of a violation of this chapter, and upon conviction thereof shall be fined in a sum of not less than twenty-five nor more than fifty dollars. (M. C., sec. 419.)

Sec. 397. Firewood—wharfage rates—remaining on unpaved wharf—duty of deputy commissioner to report amount and owner—what wood exempt—not to occupy paved wharf.—There shall be collected wharfage of ten cents on each and every cord of firewood brought to this city by boat, rail or raft, either before or after the same is unloaded from boat, rail or raft, with the permission that the same may remain on the unpaved landing a length of time not exceeding thirty days, and whenever the same shall remain longer than thirty days, it shall be required to pay five cents a cord in advance, every thirty days for the time it may so remain; and it shall be the duty of the deputy harbor and wharf commissioner to report, in writing, to the harbor and wharf commissioner, the amount of all firewood, with the name of the owner or consignee thereof, subject to payment of wharfage as soon as it arrives within their respective districts, and also the report aforesaid, the amount of all firewood liable to the payment of wharfage within their respective districts, by reason of its having remained on the landing longer than the time allowed by this section, since the last payment of wharfage; provided, that wood on steamboats or locomotives, intended for their own use, is not subject to the payment of wharfage; and provided further, that no portion of the paved wharf or landing shall be occupied by wood unless by permission of the harbor and wharf commissioner. (Ord. 21911, sec. 1; amending M. C., sec. 420.)

Sec. 398. **Cord—how computed.**—A cord of wood shall be computed as one hundred twenty-eight cubic feet, and all firewood shall be sold by the cord or fractional part of cord. The deputy harbor and wharf commissioners, when measuring wood, shall rate the length of the wood at four feet, including one-half of the kerf. (M. C., sec. 421.)

Sec. 399. **Measurement of firewood for private use.**—Firewood brought to the city by water for private use and not for sale may, at the option of the owner, be measured in the bulk or boat load. (M. C., sec. 422.)

Sec. 400. **Deputy — hours at wharf.**—The deputy harbor and wharf commissioners shall be at all times, from sunrise until dark, upon those parts of the wharf or landing where firewood is directed to be landed or sold. (M. C., sec. 423.)

Sec. 401. **Measurements for vendors or purchasers.**—The deputy harbor and wharf commissioner shall, whenever required so to do by any vendor or purchaser of firewood, measure and mark off any quantity of firewood required, and is hereby authorized and required to charge and collect from such vendor, for every such measurement, a fee of five cents per cord; such fees shall be paid over on Saturday of each week by the harbor and wharf commissioner to the treasurer, taking triplicate receipts therefor, one of which he shall file with the auditor and one with the comptroller. (M. C., sec. 424.)

Sec. 402. **Coal or coke—barge of, measurement.**—The deputy harbor and wharf commissioner, whenever required so to do by any vendor or purchaser of a barge of coal or coke, shall measure and certify the number of bushels contained therein, and is hereby authorized and required to charge and receive from the person or persons so requiring the measurement, a fee of fifty cents per every one thousand bushels, and for very fractional part thereof over five hundred bushels, fifty cents, and under five hundred bushels, twenty-five cents, which fee shall be paid in as provided by section 401. (M. C., sec. 425.)

As to coal measurements in general, etc., see secs. 2562 to 2574, 2540.

Sec. 403. **What collections to be made by collector.**—All collections required by this article other than those mentioned by sections 401 and 402 shall be made by the collector. The harbor and wharf commissioner, on delivering each bill to the collector, shall take duplicate receipts therefor, one of which he shall retain in his office, and the other he shall deliver at least monthly to the auditor, who shall charge the collector with the bills so placed in his hands for collection. (M. C., sec. 426.)

Sec. 404. **Report — what to be made to assembly.**—The harbor and wharf commissioner, in his annual report to the municipal assembly, shall present, in statistical form, the number of cords of wood and the amount of revenue derived from the wharfage and measurement of said wood for the year last past. (M. C., sec. 427.)

ARTICLE V.

OF SCAVENGER DUMPS.

Sec. 405. **Location of dumps.**—There are hereby established the following-named scavenger dumps, and located as follows, to-wit: The

northern scavenger dump, at or near the foot of Clinton street; central scavenger dump, at or near the foot of Mullanphy street; Chouteau avenue scavenger dump, at or near the foot of Chouteau avenue; Victor street scavenger dump, at or near the foot of Victor street; southern scavenger dump, at the foot of Stein street, South St. Louis. (M. C., sec. 428.)

Sec. 406. Superintendent of.—The harbor and wharf commissioner shall appoint one of his deputies to be superintendent of scavenger dumps. (M. C., sec. 429.)

Sec. 407. Watchmen.—The harbor and wharf commissioner shall appoint, with the approval of the president of the board of public improvements, the following number of watchmen for the several dumps: For the northern dump, two watchmen; for central dump, three watchmen; for Chouteau avenue dump, two watchmen; for Victor street, two watchmen; for southern dump, two watchmen; who shall be divided by appointing one watchman for day and one watchman for night work on each of the dumps, except the central dump, where two watchmen shall be stationed on the day watch; said watchmen shall receive in full compensation for their services the sum of six hundred dollars each per annum, payable monthly. (M. C., sec. 430.)

Sec. 408. Dumps to be free.—The scavenger dumps established and maintained by the city shall be free dumping places for slops, refuse from markets, manure, night soil, offal from slaughter houses and other animal or vegetable matter, but not for earth, stone or other matter liable to fill up the river bed in front of the dumps, and to create an obstruction to the harbor of the city. (M. C., sec. 431.)

Sec. 409. Regulations of, to be made.—The harbor and wharf commissioner is hereby authorized and directed to make such regulations concerning the manner and time of dumping night soil and other offensive substances as he may deem necessary to prevent the creation of a nuisance thereby. (M. C., sec. 432.)

Sec. 410. Use of, may be prohibited.—Whenever, on account of low water or from any other cause, one of the dumps established and maintained by the city shall be unfit to be used, or if the further use of any established dump will create a nuisance or an obstruction to the harbor of the city, the harbor and wharf commissioner shall have the right to temporarily prohibit the use of such dump, either entirely or for only for certain kinds of material, as in his judgment may be required, and to provide in its stead such other temporary convenience for dumping as the necessities of the case may demand. (M. C., sec. 433.)

Sec. 411. Removal of offal—additional help—ship carpenters and caulker.—The harbor and wharf commissioner is hereby authorized with the approval of the president of the board of public improvements, to employ such labor as is necessary to remove sediment, garbage, butchers' stuff and other offal as accumulates on the public levee or wharf, such labor to receive one dollar and seventy-five cents per day each. The harbor and wharf commissioner may also, with the approval of the president of the board of public improvements, appoint two ship carpenters and one caulker, who shall receive as compensation three dollars per day each. (Part of ord. 22166.)

This ord. 22166, repeals sec. 434 of the M. C. The section repealed is correctly referred to in the title, though not in the body of the ordinance where it is designated as 404 instead of 434. As to employes of Harbor and Wharf department, see R. C., secs. 1965, 2012-2014, 1999.

Sec. 412. **Violations of article—penalty.**—Any person who shall dump from any of the dumps maintained by the city, earth, stone or other material prohibited from being dumped by this article, or who shall disobey any of the directions or orders of the harbor and wharf commissioner in relation to dumps, given under authority of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than five nor more than one hundred dollars. (M. C., sec. 435.)

ARTICLE VI.

OF FERRIES.

Sec. 413. **Keepers of ferries to pay a license.**—No person shall keep a ferry within the limits of this city, so as to demand and receive pay for transporting persons or property across the Mississippi River, or use in any way the wharf or shore of said river as a ferry landing without a license therefor, under penalty of thirty dollars for each day such ferry may be kept without a license. (M. C., sec. 436.)

Charter power: Art. III, sec. 26, clause 4. This provision is valid: *St. Louis vs. Waterloo-Carondelet T. Co.*, 14 Mo. App. 216. In granting licenses charge for round trip may be limited: *State vs. Sickmann*, 65 Mo. App. 499.

See as to right of a city to impose a license tax on ferries plying between St. Louis and East St. Louis: *Wiggins Ferry Co. vs. East St. Louis*, 107 U. S. 365; *St. L. vs. Waterloo-Carondelet*, *supra*. See also, as to protecting such ferry franchise by injunctive relief against unauthorized operation of a rival ferry company which has no city license: *Cauble vs. Craig*, 94 Mo. App. 675, 682; *Carroll vs. Campbell*, 110 Mo. 557; *Carroll vs. Campbell*, 108 Mo. 550. Where a city is not given exclusive power to license, the right of the state to license ferries is not taken away: *Harrison vs. State*, 9 Mo. 530. Special legislation relating to ferries is prohibited by the Missouri constitution of 1875: Art. IV, sec. 53. See *Carroll vs. Campbell*, *supra*.

See also in connection herewith limitation of the right of the city and state to impose a license tax (though in lieu of wharfage dues) on vessels licensed under the laws of Congress to do a coasting trade on the Mississippi river, and engaged in carrying freight, authorities referred to in head note to Art. 2 of this chapter.

Sec. 414. **Petition for ferry to be made to assembly.**—Any person who shall desire to keep a ferry within the limits of this city shall petition the municipal assembly for a license therefor, setting forth in the petition the number and kind of boats intended to be employed, the length of time for which said license is wanted, and places where such ferry is designed to be kept. (M. C., sec. 437.)

Sec. 415. **Assembly to direct license to issue and prescribe rate.**—The municipal assembly may by ordinance direct a license to issue and prescribe the sum of money to be paid therefor each six months. (M. C., sec. 438.)

Sec. 416. **Term of license and bond.**—Upon the passage of such ordinance a license shall be issued to the applicant for the term of six months, charging therefor the sum directed by such ordinance; provided, that the applicant therefor shall give bond to the city in the sum of ten thousand dollars, with not less than two sureties, holders of unincumbered real estate in the city, to be approved by the Mayor and Council, conditioned for the faithful performance of all duties enjoined by any ordinance of the city. (M. C., sec. 439.)

Sec. 417. Renewals of license.—If the license be granted by the municipal assembly for a longer time than six months, it shall be renewed at the end of each six months, during the time specified by ordinance, without the necessity of a new petition. (M. C., sec. 440.)

Sec. 418. Issue of licenses, when assembly not in session.—At any time when the municipal assembly is not in session, the Mayor may direct ferry licenses to be issued to continue in force until the end of the next regular session of the municipal assembly, upon the applicant giving bond as hereinbefore required. (M. C., sec. 441.)

Sec. 419. Duties of ferry-keepers.—Every keeper of a ferry shall keep a good and sufficient boat or boats, in good repair and well manned, and give ready and due attendance at all times between sunrise and dark, and for neglecting, failing or refusing to give such attendance or promptly to transport persons or property across the river, when the river can be passed, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than twenty dollars; provided, he shall not be obliged to transport any person or property before payment of the legal ferriage therefor shall have been made or tendered. (M. C., sec. 442.)

Sec. 420. When license may be revoked.—If any keeper of a ferry fail or neglect for three consecutive days, or for six several days within any period of six months, to perform the duties herein enjoined on him, except when prevented by the elements or other uncontrollable cause, calculated to render navigation dangerous or impracticable, his license may be revoked by the Mayor or municipal assembly, and after he shall have received notice of such revocation, he shall not for the purpose of transporting persons or property, as a ferry land any ferry boat or take it from the shore of the river within the city, under penalty of not less than twenty nor more than one hundred dollars for each offense. (M. C., sec. 443.)

Sec. 421. Ferry keepers may be sued on bond.—Any person injured or damaged by the failure, neglect, or refusal of any ferry keeper to perform any of the duties enjoined by this article may sue upon said bond issued as hereinbefore required. (M. C., sec. 444.)

Sec. 422. Landing to be designated by commissioner.—It shall be the duty of the harbor and wharf commissioner to designate the places of landing of the different ferries, unless the same shall be fixed by ordinance. (M. C., sec. 445.)

Sec. 423. Temporary landing to be designated—when.—If any ferry boat, on account of the low stage of water in the river, or other natural causes, shall at any time be prevented from landing at the point designated as its landing place, the harbor and wharf commissioner shall designate the nearest point thereto at which such boat can, without obstruction, land at its landing place for the time being; and such boat shall be landed at the place so designated until a landing can be effected unobstructedly at its regular landing place. (M. C., sec. 446.)

Sec. 424. Rules for operating ferry boats.—Ferry boats shall pursue the nearest practical route or course across the Mississippi River,

and shall not remain at the landing in this city longer than ten minutes, unless compelled to do so in order to discharge and take in passengers or cargo. (M. C., sec. 447.)

Sec. 425. Rates of ferriage.—At any ferry established under this article, ferriage for one passage in either direction shall not exceed the following rates, to-wit: For children under five years of age, when accompanied by guardian, free; for each person five years of age or over, five cents; for hogs and sheep, per head, four cents; for cattle, horses and mules, per head, ten cents; for man and horse or mule, fifteen cents; for one-horse vehicle, including driver, twenty-five cents; for two-horse vehicle, including driver, thirty-five cents; for three-horse vehicle, including driver, forty-five cents; for four-horse vehicle, including driver, fifty cents; for five-horse vehicle, including driver, sixty cents; for six-horse vehicle, including driver, seventy cents; provided, however, that rates for market wagons, or vehicles loaded with produce of manufacture of this state or the state of Illinois and returning empty within ten days after crossing, shall not exceed for one-horse vehicle each way, fifteen cents; each two or three-horse vehicle, each way, thirty cents; each four-horse vehicle, each way, thirty-five cents; provided, that any party, person or corporation violating any of the provisions of this section by demanding or receiving any compensation in excess of amounts herein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for every offense, one-half of said fine to go to the informer. In addition to the above penalty, the license or privilege to land at any wharf or landing within the limits of the city may be revoked by the Mayor or municipal assembly by proper ordinance, for any violation of the provisions of this chapter in relation to demanding or receiving any compensation in excess of amounts herein provided. No charge shall be made for the load in any vehicle. (M. C., sec. 448.)

Sec. 426. Rates to be posted, where.—Upon every ferry boat licensed as aforesaid, there shall be posted up in at least two conspicuous places, printed copies of the next preceding section; and any ferry keeper failing to keep the same posted up shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not exceeding twenty dollars for each day of failure. (M. C., sec. 449.)

Sec. 427. Wiggins Ferry Company—terms of license to.—Upon the Wiggins Ferry Company complying with the provisions of this article, it shall be entitled to a license to keep a ferry within the city limits during the pleasure of the municipal assembly, upon the payment of twenty-five hundred dollars every six months in advance, on the first days of March and September of each year, and to have one landing place above and one below Market street, at the paved wharf, not to exceed for each landing place two hundred feet in length. (M. C., sec. 450.)

The Wiggins Ferry Co. is an Illinois corporation; as to the right of East St. Louis to impose a license tax, and that such is not void because plying between states see *Wiggins Ferry vs. East St. Louis*, 107 U. S. 365. See also in general *Louisville Ferry Co. vs. Kentucky*, 188 U. S. 385.

Sec. 428. Madison county ferry—how governed.—Upon the Madison County Ferry Company complying with the provisions of this article, it shall be entitled to a license to keep a ferry within the city limits

during the pleasure of the municipal assembly, upon the payment of three hundred dollars every six months in advance and to have one landing place not to exceed two hundred feet in length. (M. C., sec. 451.)

Sec. 429. •Licenses under two preceding sections—term of and renewal.—A license shall be issued to each of said ferry companies in the preceding sections mentioned, for six months, to commence from the date of the expiration of their last license. Upon the expiration of every ferry license so granted, the same shall be renewed until otherwise ordered by the municipal assembly, upon the payment of the amount required by this article, without any additional petition. (M. C., sec. 452.)

Sec. 430. Right of amendment or repeal reserved.—This article in relation to ferries, and the rights and privileges hereby granted to the Wiggins Ferry Company and the Madison County Ferry Company, are subject to amendment, modification or repeal. (M. C., sec. 453.)

Sec. 431. Sunken boat or float to be removed from harbor.—In case any ferry boat or float sinks in the harbor, it shall be the duty of the owners thereof, at their own expense, to forthwith remove the same from the harbor, and if the said owners fail to forthwith remove said boat or wreck, it shall be the duty of the harbor and wharf commissioner to remove the same at the expense of said owners, and said owners shall be liable on their bond for all expenses incurred in such removal by the harbor and wharf commissioner. (M. C., sec. 454.)

Sec. 432. Illinois and St. Louis Railroad and Coal Company --conditions of license to.—Upon the Illinois and St. Louis Railroad and Coal Company complying with the provisions of this article, it shall be entitled to a license to keep a ferry within the city limits during the pleasure of the municipal assembly, upon the payment of three hundred dollars every six months in advance and to have one landing place at or near the foot of Mulberry street, not to exceed one hundred and fifty feet in length. (M. C., sec. 455.)

Sec. 433. St. Clair Ferry Company to land at Sidney street.—That portion of the wharf in the southern part of the city lying at the foot of Sidney street, commencing at a point forty feet north of the north line of Sidney street and extending therefrom southwardly one hundred and fifty feet, shall be and the same is hereby designated as the place of landing for the ferry of the St. Clair Ferry and Transfer Company, but the floats against which said ferry company shall land its boats shall not exceed one hundred and fifty feet in length. (M. C., sec. 456.)

Sec. 434. License granted to St. Clair Ferry Company.—There is hereby granted to said St. Clair Ferry and Transfer Company a ferry privilege, and said company shall be entitled to a license to keep a ferry within the city limits, and at the place of landing designated in the preceding section during the pleasure of the municipal assembly, for which privilege and license said company shall pay the city seventy-five dollars every six months, in advance; and such license is hereby directed to be issued to said company, and to be renewed from time to time. (M. C., sec. 457.)

Sec. 435. Collections, how made—bonds, where filed—licenses, how issued.—All collections required by this article shall be

made by the collector; all bonds required to be executed to the city by this article shall be filed with the register, and all licenses herein required shall be issued in blank by the register and delivered to the comptroller, who shall countersign the same, and deliver and charge the same to the harbor and wharf commissioner, who shall make out said bills and deliver them to the collector, taking triplicate receipts therefor, one of which he shall file with the auditor, and one with the comptroller. (M. C., sec. 458.)

Sec. 436. License to Waterloo-Carondelet Turnpike and Ferry Company.—Upon the Waterloo, Carondelet Turnpike and Ferry Company complying with the provisions of this article, it shall be entitled to a license to keep a ferry within the city limits during the pleasure of the municipal assembly, upon the payment of one hundred dollars every six months in advance, and to have one landing place at some place south of Stein street, to be fixed by the harbor and wharf commissioner, not to exceed two hundred feet in length. (M. C., sec. 459.)

St. Louis vs. Waterloo-Carondelet T. and F. Co., 14 Mo. App. 216.

CHAPTER 11.

HEALTH DEPARTMENT.*

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ARTICLE I.

OF BOARD OF HEALTH.

Sec. 437. Members of.—The board of health, as constituted by section two of article twelve of the charter, shall consist of the Mayor, who shall be its presiding officer, the presiding officer of the council, a commissioner of police, to be designated by the Mayor, two regular practicing phy-

*Charter, Art. XII, treats of the Health department.

sicians, who shall possess the same qualifications as the Mayor, and who shall be appointed by the Mayor and confirmed by a majority of the members of the council, and the health commissioner, who, in the absence of the Mayor, shall be the presiding officer. (M. C., sec. 460.)

Members of the board of health are not state officers within the meaning of the constitution relative to appeals: *State ex rel. vs. Board of Health*, 90 Mo. 169. As to functions of Board of Health see *State vs. Butler*, 178 Mo. 272, 303 *et seq.*

Sec. 438. Meetings—quorum—rules.—The board shall meet twice in each week during the year; but may be convened in special session at any time by the Mayor, health commissioner, or by any two members of the board, upon a written notification, served twelve hours before the time of said meeting. Three members of the board shall constitute a quorum for the transaction of business. The board shall have power to adopt rules and regulations for its government. (M. C., sec. 461.)

See Charter, Art. XII, sec. 2, making same provisions.

Sec. 439. President pro tem.—In case of the absence of both the presiding officers of the board, as established by the charter, from any regular or special meeting, the other members are hereby empowered and authorized to organize the board and conduct their business by electing a presiding officer pro tempore. (M. C., sec. 462.)

Sec. 440. Terms and salaries.—The members of the board of health shall hold their office for the term of four years and until their successors are duly elected or appointed and qualified. They shall, except the Mayor, health commissioner, president of the council and police commissioner, receive a salary of five hundred dollars each per annum, payable monthly. (M. C., sec. 463.)

Sec. 441. Books and records to be kept.—The board of health shall cause to be kept in suitable books a full and correct record of its proceedings and acts. They shall also cause to be kept a full and correct account of all expenses incurred by their authority, specifying the amounts, why and when, and how incurred, for what purpose applied, and also a correct account of moneys received by them from whatever source. They shall also cause to be kept a book for the registration of all physicians who have complied with all ordinances governing physicians, and shall furnish a copy of the same to any druggist or apothecary applying therefor. (M. C., sec. 464.)

See Charter, Art. XII, sec. 14.

Sec. 442. Accounts of—approval and auditing.—Before any money is paid out the accounts therefor shall be examined and approved by a majority of the board, and signed and approved by the president or health commissioner and attested by the clerk, and such accounts, if so certified, shall be audited by the auditor in the same way other accounts are audited, and he shall draw his warrants on the treasurer for such amounts, according to law. (M. C., sec. 465.)

Sec. 443. Purchase of articles required.—All articles of every kind and description that may be required in any and all of the institutions and departments under the charge of the board of health shall be purchased, as may be provided for by the charter and ordinances. (M. C., sec. 466.)

Sec. 444. Clerk—appointment of.—The health commissioner shall appoint some fit and competent person, who shall possess the qualifications as prescribed by section ten, article four of the charter, as clerk of the health commissioner, and such appointment shall be subject to the approval of the board of health. The clerk of the health commissioner shall act as the clerk of the board of health. (M. C., sec. 467.)

See Charter, Art. XII, sec. 14.

Sec. 445. Salary and bond of clerk.—Said clerk shall receive a salary of eighteen hundred dollars a year, payable monthly, and shall, before entering upon the duties of his office, give a good and sufficient bond in the sum of five thousand dollars, conditioned as the bond of other city officers, and be approved by the mayor and council. (M. C., sec. 468.)

Sec. 446. Duties of clerk.—It shall be the duty of the clerk to attend at the office of the board of health and the health commissioner, attend all meetings of the board, record its proceedings in suitable books, issue its orders, sign all notices and attest all copies of papers and proceedings, and to do and perform all such duties as may be required of him by the board of health and the health commissioner. He shall also keep a record of all acts and orders of the health commissioner, shall file all petitions, documents and papers belonging to the office of health commissioner and board of health, and shall keep a correct account in full of all receipts and expenditures in said offices, and a strict account of all moneys and effects that may come into his possession, and he shall devote his time to the duties of his office. (M. C., sec. 469.)

Sec. 447. Powers of board in reference to asylums for blind, deaf, etc.—The board of health of the City of St. Louis is hereby authorized and empowered to do all acts and perform all functions which have heretofore been done and performed by the county court of the county of St. Louis prior to the adoption of the scheme for the separation and reorganization of the government of the City and County of St. Louis, and the adjustment of their relations in reference to the admission of deaf and dumb persons to the Missouri Institution for the Education of the Deaf and Dumb, and the admission of blind persons to the Missouri Institution for the Education of the Blind. (M. C., sec. 470.)

Sec. 448. Powers as to existing laws and future laws governing such institutions.—The board of health is hereby authorized and empowered to execute and carry out all existing laws, and such laws as may hereafter be passed by the general assembly of the State of Missouri which confer any power or require the performance of any duty by county courts in reference to the admission of deaf and dumb and blind persons to the institutions provided by the state for their education. (M. C., sec. 471.)

Sec. 449. Authority to reopen certain wells.—Authority is hereby given to the board of health to grant a permit to reopen any well which was closed pursuant to ordinance thirteen thousand two hundred and seventy-two, on such terms and conditions and under such regulations and restrictions as they shall deem expedient, such permit to be revocable at any time, and without notice, and on such revocation the well embraced in the same to be closed by and at the cost of the person to whom the permit is granted; provided, however, that nothing herein contained shall be construed as making obligatory on the board of health to grant the above per-

mit in any case, and the right to reject and refuse applications for permits in any and all cases is reserved to the board of health. (M. C., sec. 472.)

See R. C., sec. 618.

Ord. 13272 was repealed by ord. 13352, approved July 23, 1885, and what is now sec. 618, enacted in lieu thereof, which is a re-enactment of the ordinance repealed by sec. 13272. See as to the authority of the city to abolish wells: *Ferrenbach vs. Turner*, 86 Mo. 416 (holding ord. 13272 valid).

ARTICLE II.

OF HEALTH COMMISSIONER AND ASSISTANT.

Sec. 450. Duties and powers of Commissioner.—The health commissioner shall have general supervision over the public health of the city, and see that its regulations and the laws and ordinances of said city in relation thereto are enforced and observed, and for that purpose is authorized and empowered to make such rules and regulations, with the approval of the board of health, not inconsistent with the charter or any city ordinance or law of the state, as will tend to preserve and promote the health of the city, and to appoint such employes, with the approval of the board of health, as may be necessary for the execution of his orders; to enter into or authorize any employe or police officer to enter into and examine, in the day time, all buildings, lots, and places of every description within the city, and to ascertain and report to him the condition thereof, so far as the public health may be affected by it; to declare and abate nuisances in such manner as may be provided by the charter, or by the ordinances of the city; but all such condemnation must first be approved by the board of health, whose action thereon shall be final; and shall provide for the registration of all births and deaths within the city; shall have charge of all city hospitals, quarantine, insane asylum, morgue and city dispensary, and with the advice and counsel of the board of health make all the necessary rules for the government thereof. He shall obey all orders not inconsistent with the charter and city ordinances emanating from the board of health, and shall annually report to the Mayor the general operations of his department during the year then ended, with such suggestions for the improvement of the same as he shall consider expedient. (M. C., sec. 473.)

This section is largely a reiteration of the provisions in the Charter, Art. XII, sec. 3, which see. (See also Session Acts 1901, p. 207, sec. 8, imposing on the Health Commissioner in St. Louis the duties elsewhere cast on the county clerk respecting the practice of medicine and surgery: "Laws Specially Applicable to St. Louis," sec. 396.)

Sec. 451. Salary and bond.—The health commissioner shall receive a salary of three thousand dollars a year, payable monthly, and shall, before entering upon the duties of his office, give a good and sufficient bond in the sum of ten thousand dollars, conditioned as the bonds of other city officers, and to be approved by the Mayor. (M. C., sec. 474.)

Sec. 452. Commissioner to keep records and accounts.—The health commissioner shall keep a record of all his acts and orders, and shall file all petitions, documents and papers belonging to his office, and shall keep a correct account in full of all receipts and expenditures, and shall make rules and regulations for the government of his subordinates. Copies of such records, documents, rules and regulations, when authenticated by his clerk, shall be presumptive evidence before any court of justice of the facts therein contained; provided, such rules and regulations are not inconsistent with the charter or ordinances of the city. (M. C., sec. 475.)

This is the same provision as Charter, Art. XII, sec. 9.

Sec. 453. Office of assistant health commissioner created.—There is hereby created the office of assistant health commissioner. (Ord. 20073, sec. 1.)

Sec. 454. Appointment and tenure.—The assistant health commissioner shall be appointed by the health commissioner, by and with the approval of the board of health, and may be removed by the health commissioner at his pleasure. (*Ib.*, sec. 2.)

Sec. 455. Salary and bond.—The assistant health commissioner shall receive a salary of twenty-one hundred dollars per annum, payable monthly, and shall, before entering upon the duties of his office, give a good and sufficient bond in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office, which bond shall be approved by the mayor and council. (*Ib.*, sec. 3.)

Sec. 456. Powers and duties.—The assistant health commissioner shall act as the chief sanitary officer of the sanitary division. He shall have charge of the sanitary division, and shall perform all such duties as the health commissioner may direct. In case of the absence or sickness of the health commissioner, or when directed by the health commissioner, he shall perform all the duties of the health commissioner, and shall have authority to exercise the same power and perform the same duties, as given and prescribed by the charter and ordinance for the health commissioner, and said assistant health commissioner, when performing the duties and exercising the powers of the health commissioner, shall designate himself as "Acting health commissioner." (*Ib.*, sec. 4.)

Sec. 457. Additional help — salaries —The health commissioner is hereby authorized to appoint for the use of his office, one stenographer, at a salary of seventy-five dollars per month; one assistant in the office of the mortuary records, at a salary of seventy-five dollars per month, and one assistant bookkeeper in the office of the health commissioner at seventy-five dollars per month. (Ord. 21329, sec. 1.)

As to compensation of employes in the Health Department in general see sec. 872.

Sec. 458. Same — how paid—All persons mentioned in the preceding section shall be carried on the pay-roll of the board of health and health commissioner, and shall be paid out of the fund appropriated for the salaries of the board of health and health commissioner's office. (*Ib.*, sec. 2.)

Sec. 459. Same—appointments to be approved by board.—The appointments made by the health commissioner, in pursuance of the authority given in section 457, shall be approved by the board of health. (*Ib.*, sec. 3.)

Sec. 460. Qualification of appointees.—All employes appointed by the health commissioner, except those selected from the St. Louis Training School for Nurses or appointed under section 728, shall be citizens of the United States, and residents of the City of St. Louis for at least two years prior to their appointment. (M. C., sec. 476.)

Sec. 461. Clerk for sanitary division—effect of appointment of—salary.—The health commissioner of the City of St. Louis is hereby authorized to appoint, with the approval of the board of health, a

clerk for the sanitary division of the health department, who shall be entitled chief sanitary clerk, and who shall be paid a salary of one hundred dollars per month; the same to be paid out of the appropriations for salaries of sanitary officers, inspectors and fumigators; provided, however, that there shall be no increase in the number of the force now employed in the sanitary division of the health department, and that the person appointed under the provisions of this section shall take the place of the sanitary officer now detailed for clerical work in the office of the chief sanitary officer. (M. C., sec. 477.)

Sec. 462. Employees of health department may be required to work overtime—when.—Whenever, during the prevalence of contagious diseases in the City of St. Louis, the health commissioner may deem it necessary that houses and buildings shall be disinfected on Sundays or holidays, or during the night, or at other hours during which his regular employees or assistants are not required by charter or ordinance to work, and in his opinion an emergency exists which makes it necessary that such work of disinfection should proceed on such Sundays, holidays or at night, or during hours when his regular employees are not required or expected to work, as aforesaid, then in such event said health commissioner is authorized and empowered to employ his regular assistants and help to do the said work of disinfection during said Sundays, holidays, nights or extra time, and to provide for their payment for all overtime at the same rate per month at which they are employed for regular time, instead of employing additional men not familiar with such work. (Ord. 1911, sec. 1.)

Sec. 463. Certificate of extra work.—When certifying to such extra work on the pay rolls it shall be the duty of the health commissioner to state that an emergency existed which made it necessary that such disinfection be done on Sundays, holidays, at night or during regular [irregular] hours, and that the work was done on such extra days or during such extra time. (*Ib.*, sec. 2.)

Sec. 464. Payments of extra work.—All payments for such extra work during times of emergency shall be paid out of the funds appropriated for the payment of sanitary officers, inspectors and fumigators, and the auditor is authorized and directed to draw his warrant against such fund for all of such extra services. (*Ib.*, sec. 3.)

ARTICLE III.

OF CITY BACTERIOLOGIST.*

Sec. 465. City bacteriologist created — tenure — salary — removal.—There is hereby created the office of city bacteriologist to be appointed by the mayor, subject to the approval of the board of health and confirmation by the Council. Said city bacteriologist shall hold his office for a term of four years; provided, however, that the first appointee shall hold his office only until the first Tuesday of April nineteen hundred and three, and until his successor shall have been appointed and qualified; and said city bacteriologist shall receive a salary of twenty-four hundred dollars per

*Ordinance 22561, approved Oct. 2, 1906 (too late to appear in the Revised Code, but set out in appendix hereto) provides for the establishment and equipment of the "Snodgrass Laboratory of Pathology and Bacteriology."

year, payable in equal monthly installments at the end of each month. He shall be subject to removal by the Mayor, for cause, as other city officers. (Ord. 20640, sec. 1.)

Sec. 466. Office at city hospital—whole time to duties—duties—qualifications.—Said city bacteriologist shall maintain his laboratory and carry on his work at the city hospital, and shall also be pathologist to the city hospital and director of the hospital medical and pathological laboratory, giving his full time to the performance of bacteriological and pathological work, for the City of St. Louis, and such work as may be required of him by the health commissioner under the rules relating to his department, to be promulgated by said health commissioner with the advice and approval of the board of health. Said bacteriologist shall have been a resident of the City of St. Louis at least two years next preceding his appointment. (*Ib.*, sec. 2.)

As to duties with reference to inspection of milk and cream see sec. 485.

Sec. 467. Assistants — duties.—The city bacteriologist, by and with the approval of the board of health, is hereby authorized to appoint two assistants to assist him in the work of his office. Said assistants shall perform their duties under the direction of the city bacteriologist. (Ord. 21476, sec. 1.)

Sec. 468. Qualifications of assistants.—One of said assistants shall be trained in bacteriology both theoretically and practically, and shall possess a general knowledge of pathology. The other assistant shall be trained in pathology both theoretically and practically and shall possess a general knowledge of bacteriology. (*Ib.*, sec. 2.)

Sec. 469. Salaries of same—removal.—Said assistants shall each receive a salary of one hundred and fifty dollars per month, and they shall be subject to removal by the city bacteriologist by and with the approval of the board of health for neglect of duty or misconduct. (*Ib.*, sec. 3.)

Sec. 470. Terms of assistants.—The appointment of the assistants in the office of the city bacteriologist shall expire with the expiration of the term of the city bacteriologist making the appointment. (*Ib.*, sec. 4.)

Sec. 471. Assistants to give whole time to duties—by what rules governed.—Said assistants shall give their full time in the performance of bacteriological and pathological work for the City of St. Louis, as may be directed by the city bacteriologist, and shall not perform any work for any private parties during the office hours as prescribed by the charter and city ordinances, or in the building or rooms assigned to the city bacteriologist. Said assistants shall be governed by the rules promulgated by the health commissioner, by and with the approval of the board of health, regulating the office of city bacteriologist. (*Ib.*, sec. 5.)

Sec. 472. Clerk and Janitor.—The health commissioner is hereby authorized to appoint, by and with the approval of the board of health, a clerk and a janitor in the office of the city bacteriologist. (Ord. 21660, sec. 1.)

Sec. 473. Compensation—duty of janitor.—The clerk shall receive compensation at the rate of seventy-five dollars per month; the janitor

shall receive a salary of sixty dollars per month, and in addition to his duties as janitor, he shall perform such other duties as may be prescribed by the city bacteriologist. (*Ib.*, sec. 2.)

Sec. 474. Suspension, etc.—The clerk and janitor may be suspended by the city bacteriologist for neglect of duty or violation of the rules, and when the city bacteriologist shall suspend either of said parties he shall report at once the facts in the case to the health commissioner, who may take such action as he may deem proper. (*Ib.*, sec. 3.)

Sec. 475. Salaries—how paid.—The salaries of the persons provided for in the preceding three sections are to be paid out of funds appropriated for “salaries in the office of the city bacteriologist.” (*Ib.*, sec. 4.)

[**Sec. 475a. Two laboratory assistants—compensation, etc.***]

*After the submission of the Revised Code to the Municipal Assembly (hence too late to appear therein) ordinance 22810, approved Feb. 18, 1907, was enacted, creating two laboratory assistants. Attention is directed to the ordinance by the above heading in brackets; as it is not a part of the Revised Code as enacted, it is set out in this note:

(22810)

An ordinance authorizing the appointment of two laboratory assistants in the office of the City Bacteriologist.

Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section One. The Health Commissioner is hereby authorized to appoint by and with the approval of the Board of Health, two laboratory assistants in the office of the City Bacteriologist.

Section Two. The compensation of these laboratory assistants shall be at the rate of Fifty Dollars per month, their duties shall be prescribed by the City Bacteriologist.

Section Three. These laboratory assistants may be suspended by the City Bacteriologist for neglect of duty or violation of the rules, and when the City Bacteriologist shall suspend either of said parties he shall report at once the facts to the Health Commissioner, who may take such action as he may deem proper.

Section Four. The salaries of the persons provided for in this ordinance are to be paid out of the funds appropriated for “Salaries in the office of the City Bacteriologist.”

Approved February 18, 1907.

ARTICLE IV.

OF THE CITY CHEMIST.

Sec. 476. Appointment of and term.—There is hereby created the office of city chemist, who shall be appointed by the Mayor, with the approval of the board of health, and subject to confirmation by the council, and shall perform his duties under the supervision and control of the board of health. He shall hold office for the term of four years, and until his successor is duly appointed and qualified. (M. C., sec. 478.)

The charter provisions placing the appointive power in the Mayor, subject to approval by the council, will not render void the ordinance because it requires in addition that the appointment be with the approval of the board of health. If the latter provision is contrary to the Charter it is to that extent only void, but does not for that reason disqualify the person appointed: *St. Louis vs. Liessing*, 190 Mo. 465, 490.

Sec. 477. Salary and bond.—The salary of the city chemist shall be at the rate of twenty-five hundred dollars per annum, payable in equal monthly installments. He shall give a good and sufficient bond to the City of St. Louis in the sum of ten thousand dollars, to be approved by the Mayor and council, conditioned upon the faithful performance of his duties. (M. C., sec. 479.)

Sec. 478. Qualifications.—The city chemist shall be a person skilled in the science of analytical chemistry and be a practical chemist. (M. C., sec. 480.)

Sec. 479. Analyses and tests—records of—duties—rules of office.—The city chemist shall make all tests and analyses of water, and of any and all materials, medicines, food and food products, when ordered so to do by the board of health, or that he may be required to do by any rule prescribed by the board of health for the government of his office. He shall keep a record of every analysis or test that may be made in his office. He shall make a weekly report to the board of health of the transactions of his office, with such information as the board of health may require. He shall control, direct, regulate, supervise and manage the operation of the office of the city chemist, and for that purpose is authorized to make such rules and regulations, with the approval of the board of health, not inconsistent with the charter or any city ordinance or law of the state as may be necessary for the execution of his order or proper administration of the office. (M. C., sec. 481.)

The duties of milk and cream inspection are imposed upon the city chemist by secs. 484 and following.

Sec. 480. Sundry assistants to chemist—appointments—qualifications—salaries—duties—removal.—There is hereby created the office of assistant city chemist, who shall be appointed by the city chemist, with the approval of the board of health. His salary shall be at the rate of fifteen hundred dollars per annum, payable in equal monthly installments. He shall be under the directions of and assist the city chemist, and be subject to the rules and regulations adopted for the government of the city chemist's office. The assistant city chemist shall be a person skilled in the science of analytical chemistry, and be a practical chemist. In the absence of the city chemist the assistant city chemist shall have charge of the office. The city chemist, with the approval of the board of health, may also appoint assistant clerk, whose salary shall be at the rate of seventy-five dollars per month; one laboratory cleaner, whose salary shall be at the rate of fifty-five dollars per month; one collector of water samples, whose salary shall be at the rate of fifty dollars per month. All these appointees shall be subject to the rules and regulations adopted for the government of the city chemist's office. All appointees under this ordinance may be removed by the city chemist at his pleasure with the approval of the board of health. (Ord. 21829, amendment.)

Additional assistants for milk inspection, see sec. 486.

Sec. 481. Rules of office, approval and amendment.—The city chemist shall prepare and submit to the board of health for their adoption and approval rules and regulations for the government of his office; such rules may be amended by said board of health from time to time, whenever, in the opinion of the board of health, the same is necessary. (M. C., sec. 483.)

Sec. 482. Chemist and assistant subject to removal.—The city chemist and assistant city chemist shall be subject to all the laws and regulations governing city officers and may be removed from office by majority vote of the board of health. (M. C., sec. 484.)

The manner of removal of city chemist, if not in accordance with the Charter method, does not invalidate the office itself: *St. Louis vs. Liessing*, 190 Mo. 464, 491.

Sec. 483. Chemist and assistant to be on pay-roll of board of health—requisition for supplies.—The city chemist and assistant city chemist shall be carried on the pay-roll of the board of health and health commissioner, and all requisitions for supplies for said office shall be made by the city chemist and approved by the presiding officer of the board of health. (M. C., sec. 485.)

ARTICLE V.

OF INSPECTION OF MILK AND CREAM, AND OF LICENSING AND REGULATING THE SALE THEREOF.*

*Ordinance 20808 repeals the prior milk inspection law (Mun. Code, secs. 496-511). The validity of the ordinance (which appears herein as the sections composing this article) was upheld against a number of constitutional objections (as well as other objections) and the general right of the city to regulate the sale of milk as provided in the ordinances was fully sustained in the following cases: *St. Louis vs. Liessing*, 190 Mo. 464; *St. Louis vs. Grafeman Dairy Co.*, 190 Mo. 492; *St. Louis vs. Grafeman Dairy Co. (No. 2)*, 190 Mo. 507; *St. Louis vs. Reuter*, 190 Mo. 514; *St. Louis vs. Polinsky*, 190 Mo. 516; *St. Louis vs. Schuler*, 190 Mo. 524; *St. Louis vs. Bippin*, 100 S. W. 1048 (March 5, 1907).

The charter provisions on the subject are Art. III, sec. 26, clause 7 ("inspection of milk"); *ib.* clause 5 (license, tax and regulate occupations) *ib.* clause 6 ("secure the general health") and *ib.* clause 14 (general welfare clause).

But shortly after the enactment of the ordinances upheld in above decisions reported in 190 Mo., there was passed the State law (Session Laws Mo., 1905, page 133) providing for a State Dairy Commissioner, prescribing certain duties as to inspection of milk, etc., and certain standards, etc. Whether, and if so to what extent, this State law operates to supersede the city ordinances has not been decided by the appellate courts, but cases are now pending involving these questions.

Sec. 484. Inspection and control in charge of city chemist.—The inspection and control of the quality of milk and cream produced, sold or offered for sale in the City of St. Louis is hereby placed in charge of the city chemist. (Ord. 20808, sec. 1.)

But see acts 1905, p. 133 (passed after the above ordinance 20808) creating the office of State Dairy Commissioner and conferring in large measure duties on him respecting milk and cream inspection which perhaps, to some extent at least, conflict with the ordinances.

Sec 485. Duties of inspection on city chemist and bacteriologist—rules—The city chemist and his assistants shall perform the duties required in the inspection, testing or analysis of milk or cream; provided, however, that in suitable cases he can call upon the city bacteriologist for special tests or assistance.

The city chemist shall formulate such rules as he may deem necessary for the government of his assistants or others employed in the inspection and analysis of milk and cream. (*Ib.*, sec. 2.)

Sec. 486. Assistants—qualifications—bond removal.—The city chemist, with the approval of the board of health, may appoint five

additional employes in the office of the city chemist, none of whom shall be directly or indirectly financially interested in the milk or dairy business. Two of said appointees, to be known as assistant chemists, shall be persons skilled in the science of chemistry, and shall have had experience in milk analysis, the two other appointees, to be known as milk inspectors, shall be reputable men of good business character and competent to perform the duties of their office. The fifth appointee shall be known as clerk of the office of the city chemist, shall be fully competent to keep accounts and perform any clerical work that may be assigned to him. All appointees under this ordinance may be removed from office by the city chemist for incompetency, misconduct or neglect or violation of rules. They shall each give bond subject to the approval of the Mayor in the sum of one thousand dollars. (*Ib.*, sec. 3.)

Sec. 487. Salaries—The salaries of the assistant chemists appointed under the provisions of this article shall be at the rate of one hundred and twenty-five dollars per month. The inspectors and the clerk in the office of the city chemist shall each receive a salary of eighty-three and thirty-three one-hundredths dollars per month. (*Ib.*, sec. 4.)

Sec. 488. Requisitions—wagons and horses allowed—All requisitions for supplies and repairs connected with inspection of milk shall be made by the city chemist. There shall be allowed for the use of the city chemist's office two wagons and three horses, the vehicles to be lettered as required by the city ordinances. (*Ib.*, sec. 5.)

Sec. 489. Access to all necessary places and articles—right to take samples—violation of article made misdemeanor—duplicate samples—badges for inspectors.—The city chemist, assistant chemists and milk inspectors shall have the right, and it shall be their duty to enter and have full access, ingress and egress to all places where milk or cream is stored or kept for sale; to all wagons, carriages or other vehicles, railroad cars or conveyances of any kind, used for conveyance, transportation or delivery of milk; to any warehouse, factory, place of business, building, farm, stable, railroad depot erections, establishments or places of any kind; to all vessels, cans, packages, refrigerators, or receptacles of milk or cream, for the purpose of inspecting their condition or to take samples of milk or cream therefrom, not exceeding one pint, for the purpose of testing or analyzing the same. Such samples with marks for identification shall be sealed and placed on ice and kept at a temperature at or below fifty degrees Fahrenheit until opened for analysis and its quality finally determined. Whenever the sample or samples so found and taken shall not correspond with, or shall be in violation of this article, the person or persons, firm or corporation in whose possession, care, custody or control of such milk or cream may be found, shall be deemed guilty of a misdemeanor, and upon conviction, fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. The person, firm or corporation from whom a sample of milk or cream shall be taken, shall on demand therefor, then and there made, have a right to have a duplicate of said sample sealed with the seal of the officer, on tendering him a suitable receptacle therefor.

The milk inspectors shall each when on duty wear a metal badge, designed by the city chemist, which shall be supplied by and be the property of the city, and be returned at the expiration of their term of office. (*Ib.*, sec. 6.)

Sec. 490. Samples to be tested—violations of requirements prosecuted—record of tests public.—All samples of milk or cream taken or brought to the office of the city chemist by the persons employed therein shall be analyzed or otherwise satisfactorily tested; and wherever or whenever said milk or cream so tested or analyzed shall be found violative of any of the provisions of this article, the necessary steps shall be taken for prosecution for a violation thereof. An accurate record of the results of all tests or analysis shall be kept and shall be accessible as a matter of public information. (*Ib.*, sec. 7.)

Sec. 491. Any citizen may submit samples for analysis.—The city chemist shall examine, test or analyze, as may be deemed necessary, any sample of milk or cream that may be submitted for examination by any citizen, when the same has been bought for his own or family consumption. (*Ib.*, sec. 8.)

Sec. 492. Receptacles, etc., for milk or cream to be kept clean—violation misdemeanor—penalty.—All receptacles used in the hauling or handling of milk or cream, as well as all packages, refrigerators or compartments of stores or other places where milk or cream is kept, stored or handled shall be kept in a scrupulously neat and clean condition, and containers shall not be kept in the presence or vicinity of any article of any kind likely to contaminate or injuriously affect the sweetness, quality or condition of the milk or cream. Any person found violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 9.)

Sec. 493. Milk vendors' licenses required—registration—fees—retail—wholesale—definition of terms—misdemeanor for violation—penalty.—Every person, firm or corporation who shall sell or offer for sale, expose for sale, dispose of, exchange or deliver, or with the intent so to do as aforesaid, have in his or their possession, care, custody or control, milk or cream, in or from any store, stand, booth, market place, milk depot, warehouse, dairy, cow stable or any building erection or establishment of any kind, or shall transport, convey or deliver the same by wagon, carriage, or other vehicle, or by hand, shall first be licensed to do so, and shall register as a milk vendor in the office of the health commissioner, and pay to the city collector [license collector] the license fees provided for by this article.

Every person, firm or corporation selling or disposing of milk or cream at retail shall, within thirty days after this article goes into effect, and semi-annually on the first Mondays of January and July thereafter, pay license fees as follows: Every milk or cream vendor shall pay for the privilege of conducting a milk business, a registration fee of one dollar per annum, and in addition thereto each vendor shall pay for every wagon or other vehicle from which milk or cream is sold or delivered, a semi-annual license fee of two dollars and fifty cents.

And every vendor of milk or cream at wholesale, by which shall be understood, meant, and is hereby defined, a person or corporation selling to others milk or cream in quantities to any person, firm or corporation of sixteen gallons or more on any one day, shall pay, semi-annually, as aforesaid, a wholesale license fee of twenty-five dollars.

If any person, firm or corporation commence or engage in the traffic or handling of milk or cream at any periods other than those hereinbefore

mentioned, he or they, before doing so, shall pay the pro rata license fees in their cases required, which license so issued, as well as other licenses herein required, shall be good for a period ending with either the first Monday of January or first Monday of July, as the case may be, following the issuance and delivery thereof. Every person, firm or corporation violating this section, or any of its provisions, shall be deemed guilty of a misdemeanor and, on conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 10.)

This section held valid in *St. Louis vs. Grafeman Dairy Co.*, 190 Mo. 492 (holding that the requirement to register and pay the dollar registration fee, is a valid police regulation, is not in conflict with the merchants' license, and that the fact that the officer is called city collector is not material, it being evident that the license collector was the person intended; and that the title to the ordinance was sufficient, and that its provisions contained but one subject matter, etc.)

Sec. 494. Registration certificates requirements preliminary to issuance of license—subsequent changes in data given—violation a misdemeanor—penalty.—Registration certificates and licenses shall be issued in the names of the applicants therefor. No registration or license certificate shall be sold, assigned, loaned or transferred, or be placed in the care, custody, control or possession of any person other than the one to whom it was issued. No license shall be issued by the city [license] collector until the party shall file with him a certificate of registration signed by the city chemist, stating that the written application hereafter provided for has been filed in the office of the city chemist and approved by him. Before the issuance of the license every vendor of milk or cream shall make a written application for registration to the city chemist on a printed form provided for that purpose, on which shall be stated:

First. The name, residence and location of the business place or places of applicant.

Second. If by a firm, the names of each member of the firm and location of the business place or places of the firm.

Third. If by a corporation, the names of the president, secretary and business manager or superintendent thereof, and location of the business place or places of the corporation.

Fourth. The location of the business place or places of the applicants must be distinctly stated by street and number, as well as the name be given of the person in charge of each.

Fifth. The number of cows, if any, owned or controlled by the applicant.

Sixth. The number and description of each and every wagon, carriage or other vehicle used in the milk or cream business, and the number used for the delivery of milk to customers in the retail or wholesale business, or both.

Seventh. The location of the dairy.

Eighth. Where milk or cream is brought from localities outside of the City of St. Louis, a detailed statement of the locality from which the milk is brought, and the names of the persons supplying same, conditions of the cows and premises, and precautions taken to produce pure milk.

Ninth. All other information as may be required. If after the issuance and delivery of the license and certificate of registration any changes

be made in the firm, officers, managers, superintendents, location, residence, wagons, carriages or other vehicles, written notice thereof must forthwith be given to the city chemist for insertion and correction in the records of the department. The clerk of the city chemist shall keep a full and complete record of all registrations of milk vendors.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

Tenth. Agree to furnish samples when requested by the city chemist, any assistant city chemist or milk inspector. (*Ib.*, sec. 11.)

Sec. 495. **How vehicle of vendor, etc., to be designated—violation—misdemeanor—penalty.**—No milk or cream shall be sold, offered for sale, exposed for sale, exchanged, delivered, transported, conveyed or carried on any wagon, carriage or other vehicle, unless there shall be painted thereon, on both sides thereof, in a conspicuous place and in legible Roman letters not less than four inches in height and three inches in breadth, the name of the milk vendor, and the number and street of the place of business, or location of the dairy or cow stable. Any violation of the provisions of this section shall be deemed a misdemeanor, and upon conviction thereof the offender shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 12.)

Sec. 496. **Form of license.**—All licenses paid under the provisions of this article shall be issued in blank forms to the collector by the register under the seal of the city and shall be in the form prescribed by law. (*Ib.*, sec. 13.)

Sec. 497. **Sale or carrying for sale, etc., of impure milk or cream or when not properly cooled, or when contaminated, etc.—misdemeanor—penalty.**—Whoever, by himself or by his servant, or agent, employe or milk wagon driver, or any other person, firm or corporation, sells, offers for sale, exchanges, delivers or transports or carries for the purpose of sale, exchange or delivery, or has in his custody, possession, care or control, with intent to sell, offer for sale, exchange, or deliver, or exposes or offers for sale, exchange, transportation or delivery, to or in the City of St. Louis, any milk or cream, whether from a single cow or the mixed product of a herd, which is unclean, diluted, impure, unhealthy, diseased, unwholesome, adulterated, decomposed, or sour, or not of good quality, provided for in this article, or milk or cream to which water, skimmed milk or any foreign substance has been added, or milk or cream produced from sick or diseased cows, or milk or cream from cows kept in an unclean, filthy or unhealthy condition, or milk or cream from cows fed on any other than clean, good and wholesome food, or milk or cream that has been exposed to, or contaminated or affected by the emanations, discharges or exhalations from any human being or animals sick with any contagious infectious disease, or which has not been promptly cooled after milking to at least forty-five degrees Fahrenheit and maintained until delivered to consumers at or below fifty degrees Fahrenheit, shall be guilty of a misdemeanor and on conviction thereof be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 14.)

Sec. 498. **Sale or custody of products of impure or contaminated milk or cream, etc.—misdemeanor penalty.**—No person, firm or corporation shall sell, offer or expose for sale, exchange or

delivery, or with any such intent as aforesaid, have in his or their care, custody, control or possession, any products of milk or cream or any article of food made from unclean, impure, unhealthy, adulterated, diseased or unwholesome milk or cream. Any person violating any of these provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 15.)

Sec. 499. Adulteration, etc.—misdemeanor—penalty—exceptions.—Any person who shall, by himself or by his servant, agent or employe, adulterate milk or cream, or change it in any respect by the addition of water, skimmed milk, or of any foreign substance, or by the removal of any constituent, with a view of selling or offering the same for sale or exchange, or shall deliver same to a purchaser, otherwise than with its due proportion of each of its natural components, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. Nothing in this article shall be so construed as to prohibit the sale of cows' milk, sterilized, pasteurized or modified in compositions for infant feeding, according to a prescription of a registered physician; provided, however, that such sterilized, pasteurized or modified milk may be lawfully sold in feeding bottles only, and that each bottle shall be labeled with the name of the vendor and a number corresponding to a number of the prescription kept by the vendor and accessible on demand by the health commissioner; and, provided further, that modified, sterilized or pasteurized milk shall be prepared from milk of the purity required by this article and delivered under the same conditions as to temperature. (*Ib.*, sec. 16.)

See secs. R. C. 555, 557.

Sec. 500. Sale or custody, etc., of milk or cream containing foreign matter, coloring, preservative, etc., misdemeanor—penalty.—Any person, firm or corporation, who shall sell, expose for sale, exchange, deliver, dispose of or transport, convey, or carry, or with any such intent as aforesaid have in his or her care, custody, control or possession, any milk or cream having therein, or containing any foreign substances of any kind whatever, or coloring matter, or any adulteration or preservative, whether for the purpose of artificially increasing the quality of the milk or cream, or for preserving the condition or sweetness thereof, or for any purpose whatever, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 17.)

The validity of this section was upheld in *St. Louis vs. Schuler*, 190 Mo. 524 (milk containing preservative—Formaldehyde); *St. Louis vs. Polinsky*, 190 Mo. 516 (containing adulterant—anatto).

Sec. 501. Sale of milk prohibited unless on analysis it shows certain ingredients—how analyzed when contested—misdemeanor—penalty.—No milk shall be sold, kept, offered or exposed for sale, stored, exchanged, transported, conveyed, carried or delivered, or with such intent as aforesaid be in the care, custody, control or possession of any one, unless it show on analysis not less than three per cent by weight of butter fat, eight and five-tenths per cent solids not fat, and seven-tenths of one per cent ash, of which fifty per cent shall be insoluble in hot water. Provided, however, that in contested analyses of milk condemned, under this article, butter fat shall be estimated gravimetrically by the Adams paper coil process; total solids by evaporation, and non-fatty solids by difference between total

solids and butter fat, and ash by weighing the residue after incineration of total solids at a dull red heat until all the organic matter is destroyed. Any one violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 18.)

Declared valid, in *St. Louis vs. Blippen* 100 S. W. 1048, and *St. Louis vs. Grafeman Dairy Co.*, 190 Mo. 507 (both cases of less than three per cent butter fat); *St. Louis vs. Liessing*, 190 Mo. 464 (less than seven-tenths of one per cent ash). But see *Laws 1905*, p. 133, requiring a different standard than that set up in the ordinances. This act was passed after the ordinance and that question to what extent it supersedes the same has at this writing not been decided by the appellate courts.

Sec. 502. Same—cream—butter fat—foreign substances added—misdemeanor—penalty.—No cream shall be sold, offered for sale, exchanged, delivered, or be transported for the purpose of sale, offering for sale, exchange or delivery, that contains less than twelve per centum of butter fat, or that is taken from any impure, diseased, unhealthy, unclean, adulterated, or unwholesome milk, or milk to which any foreign or other substance of any kind has been added. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 19.)

This section upheld in *St. Louis vs. Reuter*, 190 Mo. 514 (12 per cent butter fat). See preceding note.

Sec. 503. Regulations as to condensed, preserved and evaporated milk—violation misdemeanor—penalty.—No person shall manufacture, sell or offer for sale, any condensed, preserved or evaporated milk for domestic use, unless the same shall be put up in packages upon which shall be distinctly labeled or stamped the name or brand by whom or under which the same is made. No condensed, preserved or evaporated milk shall be made, sold or offered for sale, exchanged or delivered for domestic use, unless the same is manufactured from pure, clean, healthy, fresh, unadulterated and wholesome milk, from which the cream has not been removed, or unless the amount of milk solids and butter contained in the condensed, preserved or evaporated milk shall be the condensed equivalent of milk solids and butter fat provided by this article for pure milk, and in the same proportion. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. Nothing herein shall be construed to prevent the addition of sugar in the manufacture of condensed, preserved or evaporated milk, when it is so stated on the label. (*Ib.*, sec. 20.)

Sec. 504. Regulations as to buttermilk—violation misdemeanor—penalty.—Nothing in this ordinance shall be so construed as to prohibit the use or sale of what is known as butter-milk, provided the same is produced from pure and wholesome milk. No butter-milk, however, shall be sold, kept, offered for sale, exchanged, or transported, conveyed or carried, or be in the care, custody, control or possession of any one, with the intent as aforesaid, which is not the product of pure and wholesome milk, and has been kept at the temperature provided for in this article for sweet milk. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 21.)

Sec. 505. Regulations as to skimmed milk—violation misdemeanor—penalty.—The following regulations shall govern the sale of milk known as skimmed milk:

First. All milk which contains not less than ten and five-tenths per cent of total solids and one and five-tenths per cent butter fat, which is of a specific gravity between one thousand and thirty-two and one thousand and thirty-eight, which is free from foreign additions of any kind, and any evidence of decomposition, which is stored, transported and delivered to purchasers at the temperature provided in this article for sweet milk, shall be known as skimmed milk, and may be lawfully sold as such under the following regulations:

(a) All vessels, cans or packages from or in which milk is delivered or sold shall be distinctly marked in a conspicuous place above the center on the outside of each container, with the words "skimmed milk" in uncondensed Gothic letters not less than one inch in height.

(b) All wagons or vehicles from or in which skimmed milk is sold or delivered shall be plainly marked on both sides of each vehicle by a sign in letters not less than three inches in length with the words "skimmed milk."

(c) Each store, depot or other place where skimmed milk is sold shall have displayed in plain view of any one entering the premises, a sign, the letters of which are not less than two inches in height, reading "skimmed milk."

(d) All persons selling or delivering skimmed milk shall place upon each vessel or container into which such milk is measured, transferred or delivered, a label or "sticker" one inch by two inches in size upon which is printed in heavy faced Gothic letters the words "skimmed milk" with such other matters as the city chemist may prescribe to prevent its use instead of whole milk for infant feeding.

(e) Manufacturers who make affidavit in the form to be prescribed by the city chemist that the skimmed milk they handle will not be sold at retail as milk, but is solely used for manufacturing purposes, shall be exempt from the foregoing provisions.

(f) Any person who shall exchange, or have such in his possession with intent to sell, exchange or deliver skimmed milk, in any manner other than as above prescribed, shall be subject to the same penalties as are provided for the sale of whole milk in quality contrary to this article.

Any person or persons, firm or corporation, violating any of the provisions of this section, or who fail to comply with any of the regulations as provided for in this section, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 22.)

Sec. 506. Sale, carrying, disposal, etc., of milk and cream prohibited within certain time of parturition—not to be mixed with other milk or cream—penalty.—No milk or cream shall be sold, kept, offered or exposed for sale, stored, transported, exchanged, carried, delivered or any manner disposed of, drawn from cows within fifteen days before or twelve days after parturition, nor shall the same be mixed with any other milk or cream for such purposes.

Any one so offending shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 23.)

Sec. 507. Denials to or interference with authorized persons in duties prescribed in article misdemeanor—penalty.—If any person or persons refuse to comply with, or willfully connive at, or assist in a violation of any of the provisions of this article, or whoever in any manner interferes, hinders, obstructs, delays, resists, denies, prevents or in any way interferes or attempts to interfere with the city chemist, assistant city chemist or milk inspectors, or police officer in the performance of any duty herein enjoined, or shall refuse to permit such officials or others to perform their duty by refusing them or either of them entrance to any premises where milk or cream is stored or kept, or where cows are stabled or kept, or refuses to permit any animal to be viewed or inspected or any milk or cream to be viewed, inspected, tested or analyzed, or samples to be taken for such purposes, or conceal any milk or cream, or any milk wagon driver, milk peddler, or milk vendor who, with his wagon, carriage or vehicle containing milk or cream, or any person delivering milk or cream by hand, runs or drives away, or attempts to run or drive away, or conceals or attempts to conceal any milk or cream in his possession, custody, care or control, from any of the officers aforesaid on being approached, or hailed or addressed by any of such officers in the performance of their duties, shall be deemed guilty of a misdemeanor and fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 24.)

Sec. 508. Officer or employe conniving—fine—forfeiture of office.—Any officer or employe of the city chemist who willfully connives at or assists in a violation of the provisions of this article shall, on conviction thereof, be punished not only by a fine not less than one hundred dollars, but also by a forfeiture of his office upon such conviction, as provided by law and this article. (*Ib.*, sec. 25.)

Sec. 509. Confiscation of bad milk—officers protected against loss.—All milk and cream from sick and diseased cows, or that is dangerous or that may affect or be detrimental to life or health, shall, upon discovery thereof, by analysis or test made, be confiscated, forfeited and immediately destroyed by or under the direction of the city chemist or his assistants, who shall, if done in good faith, be held harmless in damages therefor, in any suit or demand made, and be protected in his action by the City of St. Louis. (*Ib.*, sec. 26.)

Sec. 510. Sick cows to be reported—sick horses also—violation misdemeanor—penalty.—Any person, firm or corporation having in possession a sick or diseased cow, shall forthwith report said fact at the office of the city chemist, who shall thereupon at once make examination thereof. Any sick horse or other animal kept in or about stables, premises or places where milch cows are kept or milked shall, in like manner, be reported.

For any failure, neglect or delay in so reporting any diseased cow, horse or other animal the offender shall be deemed guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. (*Ib.*, sec. 27.)

Sec. 511. Manufacturer of milk adulterations, colorings, preservatives, etc., guilty of misdemeanor—penalty.—Any person who shall manufacture, compound, use, sell or offer to sell any milk or cream adulterations or preservative or any compound, coloring matter, or substance whatever for the purpose of artificially preserving the sweetness or increasing the quality

of milk or cream, or for any other purpose in connection with milk or cream, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 28.)

Sec. 512. Inspection of places where cows are kept—if requirements not complied with to notify owner—until objections abated milk not to be sold, etc.—removal of diseased animals—violation misdemeanor—penalty.—The city chemist shall, as often as deemed necessary, and at least once a month, in person, inspect, view, or examine, or detail and direct the assistant city chemist or milk inspectors to inspect, view and examine all stables, houses, barns, buildings, erections or establishments, or places of any kind, and lots and pastures where cows are kept or fed, whose milk or cream therefrom is sold, used, delivered or disposed of in the city, as also the food such cows are fed, and the health and condition of such cows, and make notes and a record thereof in the books of the department. If any such cows are not fed upon good and wholesome food, or are fed upon food by this article prohibited, or are kept in an unclean, unhealthy or bad condition, or such stables are not properly ventilated, cleaned and whitewashed when needed, or are not placed in proper sanitary condition and kept so, then the officer or officers shall so notify, verbally or in writing, the owner or keeper of such cows, or stables, or other premises, and if any such owner, keeper or person shall not at once cease to milk any cow in an unhealthy or bad condition, or shall refuse, neglect or delay to at once proceed to ventilate or clean such stables, or whitewash them when needed, or place them in proper sanitary condition, the milk, cream or products from such cows shall not be sold, offered for sale, exposed for sale, or in any manner be disposed of until every such objection thereto is abated and removed and kept so, and every order or direction so made be faithfully and fully complied with.

If any diseased cow, horse or other animal shall therein or thereat be found it shall be ordered promptly removed therefrom to a place of safety out of and beyond the reach or range of contagion or infection.

For any violation of the provisions of this section the offender shall be deemed guilty of a misdemeanor and on conviction thereof be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (*Ib.*, sec. 29.)

See sections R. C. 521 to 523. See also next article relating to regulations of dairies and cow stables which in large measure impose on the Sanitary division of the Health Department the same duties above imposed on the City Chemist's office.

ARTICLE VI.

OF REGULATION OF DAIRIES AND COW STABLES.*

*For dairy at poor house see R. C. secs. 782-793.

Sec. 513. Provisions herein controlling.—All dairies, cow stables and cow lots, in the City of St. Louis shall conform to and be managed and regulated as shall be provided for by this article. (M. C., sec. 538.)

See also section 512 preceding. Ordinances regulating cows, dairies, cow stables and sales of milk are valid as an exercise of the police power. See cases cited in preceding article on milk inspection, etc.; also *Fischer vs. St. Louis*, 194 U. S. 361, 1. c. 370, affirming *St. Louis vs. Fischer*, 167 Mo. 654. But a dairy is not a nuisance *per se*: see *McDonough vs. Robbins*, 60 Mo. App. 156; *State vs. Boll*, 59 Mo. 321; see as to when it is pronounced a nuisance: sec. 521.

Sec. 514. Sanitary officers to inspect.—It shall be the duty of the sanitary officers of the health department to inspect all stables, barns, buildings, sheds and all places of any kind, including lots and pastures where cows are kept or fed, whose milk or cream is sold, used, delivered or disposed of in the City of St. Louis. (M. C., sec. 539.)

Sec. 515. Cow stables and lot to be kept clean—cooling milk.—All cow stables shall be washed out and thoroughly cleaned at least once a day, and all cow lots or cow yards shall be cleaned once a week. No liquid discharge from any cow stable or dairy or cow lot shall be conducted or placed on any public or private property or into any stream or water course within the limits of the city. All dairies and milk depots shall have suitable facilities for the keeping and cooling of milk. All persons, firms or corporations who own or keep a dairy or cow lot shall maintain the premises free from any accumulation of manure or refuse whatever. Every person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense. (M. C., sec. 540.)

Sec. 516. Dairy and cow stables to connect with sewers—catch basin.—No dairy or cow stable shall be hereafter erected or established unless it will have connection with the city sewer system, if such be practicable. No dairy shall be allowed to discharge into any public district or private sewer any manure or any substance that may cause said sewer to choke up, and no dairy shall have connection with any public district or private sewer except through two intervening catch basins of such kind so as to prevent any straw, hay or manure from entering the sewer. Any person interfering with said catch basins or failing to construct said catch basins or violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars. (M. C., sec. 541.)

Sec. 517. Permission to conduct granted by ordinance.—No dairy or cow stable shall hereafter be erected, built or established within the limits of this city without first having obtained permission so to do from the municipal assembly by proper ordinance, and no dairy or cow stable not in operation at the time of the approval of ordinance number 18407 shall be maintained on any premises unless permission so to do shall have been obtained from the municipal assembly by proper ordinance. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred nor more than five hundred dollars. (M. C., sec. 542.)

The ordinance was approved April 6, 1906. This is a valid exercise of the police power; the validity of the ordinance was sustained against numerous charterial and constitutional objections sought to be invoked against it in both state and federal courts: *Fischer vs. St. Louis*, 194 U. S. 361, affirming 167 Mo. 654; *St. Louis vs. Scheffe*, 167 Mo. 666, affirmed in *Scheffe vs. St. Louis*, 194 U. S. 373.

Sec. 518. Application to establish to commissioner of public buildings.—Before the commissioner of public buildings shall issue a permit for the erection, building or establishment of any dairy or cow stable, there shall be made to him in duplicate by the person or parties so desiring to do, an application in writing, to which shall be attached a certified copy of the ordinance giving the permission. The application shall set forth:

First—The location of the proposed dairy or cow stable.

Second—The name of the party or parties proposing to go into the dairy business.

Third—The name or names of the owner or owners of the ground on which the dairy or cow stable is to be located.

Fourth—The number of cows proposed to be kept.

Fifth—The size and dimensions of the stable.

Sixth—The dimensions and boundaries of the lot or pasture in which the cows are to be turned out.

Seventh—Whether the cow stable can be connected with the sewer system of the city or not.

Eighth—If it cannot be connected with the sewers, what arrangements exist, if any, for the removal of manure and liquid from the stable.

Ninth—Whether the stable can be supplied with city water, and, if not, what arrangements exist for cleaning out the same. The commissioner of public buildings shall forward one of said applications to the health commissioner. (M. C., sec. 543.)

Sec. 519. Regulations in constructing cow stables.—All cow stables hereafter erected, built, or established shall comply with the following regulations: All single stalls shall be at least three feet wide, double stalls six feet wide, and all stalls shall be at least seven feet long; the height of ceilings from the floor shall be at least eight feet; the floors must be of tight plank or be paved with brick or stone, laid in cement if paved with brick or stone, then the earth below it shall be sufficiently solid to prevent its becoming a receptacle of filth and offensive matter; the floors of the stalls shall slope down into a drain or gutter, which shall be at least twelve inches wide and four inches deep, and said drain or gutter shall connect with and lead into a sewer through two intervening catch basins or tightly cemented cesspool, so that waste matter can be carried or hauled away. Openings for ventilation must be placed on at least two sides of the building, with openings not less than two feet square for every double stall or two single stalls, and there must be roomy ventilators in the roof not less than one for every twenty feet or fraction thereof, in the length of the building. All cow stables hereafter to be built or established, except the entrance from or exit to, with street or alley, or easement or passageway, shall be at least three feet away from the building line. Any persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than fifty dollars nor more than one hundred dollars for each and every day the work is done thereon, or said cow stable used as such, each day of which shall constitute a separate and distinct offense. (M. C., sec. 544.)

There seems to be an error in the enrollment in the provision for entrance or exit, which is not clear. For dairy established at Poor House, see ord. 20952.

Sec. 520. Same—alterations, etc.—In the construction, alteration and improvement of all cow stables, arrangements for proper ventilation, light and drainage shall be made, and all alterations and improvements in cow stables now constructed shall be made to conform with the provisions in relation to new stables, as provided in the next preceding section. (M. C., sec. 545.)

Sec. 521. When nuisance.—All dairies or cow stables, now erected or established, when found to be so badly lighted or ventilated as to be

injurious or unhealthy for cows, or not provided with legal catch basins or tightly cemented cesspools, so that waste matter can be carried or hauled away, or shall be conducted in an uncleanly manner, shall be deemed a nuisance. (M. C., sec. 546.)

See as to dairies and cow stables being nuisances note to sec. 513.

Sec. 522. Notice to show cause—hearing.—It shall be the duty of the board of health when any report shall be made of the bad or improper construction of any dairy or cow stable, or of any nuisance created by any dairy, cow stable or cow lot, to notify the owner or proprietor thereof to show cause before the said board of health, at the time and place specified in said notice, why said dairy or cow stable should not be altered or changed, or such defects remedied or nuisance removed, which notice for the party complained against to appear shall be served at least five days before the date specified in such notice; said notice shall be served by leaving the same at the place of business or residence of the parties to be affected thereby by some officer or person duly qualified to certify to such notice; and all notices of this kind issued by the board of health shall be signed by the presiding officer of the board of health or the health commissioner. At the time fixed in said notice the parties may appear in person or by attorney, or cause may be shown by affidavit, and if, in the opinion of the board of health and health commissioner, no good and sufficient cause be shown why the said nuisance should not be abated, discontinued or removed, or said cow stables reconstructed, the health commissioner shall order the said parties to abate, discontinue, remove, or reconstruct the same within such time as the health commissioner may deem reasonable and necessary. If, upon the hearing of the affidavits and the evidence adduced in the case, the board shall find the facts to be in favor of the parties before them, and so decide, the case shall be dismissed. (M. C., sec. 547.)

Sec. 523. Penalty on failure to obey order.—Any person or persons failing or refusing to obey such order of said health commissioner shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars; and such person or persons shall be subject to like fines for each and every day he, she or they shall continue such nuisance or fail to obey the order of the health commissioner after the expiration of the time specified in the order of the health commissioner for the abatement, removal or discontinuance of the same. The fines mentioned in this article shall be collected as other fines and paid into the city treasury. (M. C., sec. 548.)

Sec. 524. Veterinary surgeons—appointment—salary.—The health commissioner, by and with the approval of the board of health, shall appoint two practical veterinary surgeons as inspectors of live stock, who shall perform their duties under the immediate supervision of the chief sanitary officer. Said veterinary surgeons shall each receive a salary of one hundred and seventy-five dollars per month, and shall each provide himself with a horse and buggy and maintain same at his own expense for the expeditious performance of his duties. Said veterinary surgeons may be discharged by the health commissioner, with the approval of the board of health, for violation of rules or neglect of duty. (M. C., sec. 549.)

Sec. 525. Bond.—The veterinary surgeons appointed under the provisions of this article shall each give a good and sufficient bond to the city in the penal sum of five thousand dollars, said bond to be approved by the

mayor and council, and the conditions of said bond shall be that [said] veterinary surgeons shall well and faithfully execute and perform the duties of their office; provided that no one shall be competent to serve as bondsmen for said veterinary surgeons who shall be either directly or indirectly interested in the milk or dairy business. (M. C., sec. 550.)

Sec. 526. Authority of surgeons and sanitary officers—penalty.—Said veterinary surgeons and sanitary officers shall have the right, and it shall be their duty, to have full access, egress and ingress to all places, buildings, cow yards, cow lots and cow stables where cows are kept for milking purposes or purposes of sale; and they shall have the right, and it shall be their duty, to examine all cows to determine whether the same are sick or diseased or have been exposed to or have been contaminated or affected by any contagious or infectious disease. Any person or persons who in any manner interferes, hinders, obstructs, delays, resists, denies, prevents, or in any manner interferes or attempts to interfere with said veterinary surgeons or sanitary officers in the discharge of their duties, or any person or persons being the owner, agent or manager of any cow stable, dairy or cow lot, or any building where cows are stabled or may be kept, who shall refuse to permit any cow to be viewed or inspected by said veterinary surgeons, or who attempts to conceal, run or drive away any cow supposed to be diseased, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than fifty dollars nor more than five hundred dollars for each and every offense. (M. C., sec. 551.)

Sec. 527. Badge of veterinary surgeons.—Veterinary surgeons shall each, when on duty, wear a metal badge which badge shall be numbered and shall have the words "Veterinary Surgeon of Health Department of City of St. Louis" plainly marked on same. Said badge shall be supplied by and be the property of the city. (M. C., sec. 552.)

Sec. 528. Inspection of cows outside city—expenses.—The health commissioner is hereby empowered to require said veterinary surgeons to go outside the corporate limits of the City of St. Louis to any point within a radius of one hundred and fifty miles to examine the physical condition of cows whose milk is or may be brought into the City of St. Louis for sale; and all vouchers for traveling expenses incurred by said veterinary surgeon, or surgeons in the discharge of this duty, when signed by the health commissioner and approved by the board of health, shall be paid out of the fund appropriated for the expense of the board of health and health commissioner. (M. C., sec. 553.)

Sec. 529. Milk of diseased cows—report—health commissioner to notify citizens.—When said veterinary surgeon or surgeons shall find any cow or cows in a dairy from which dairy milk is brought into this city for sale to be diseased, they shall immediately make a report of the facts in duplicate; one of said reports to be delivered to the health commissioner and the other to the person, firm or corporation receiving and disposing of the milk from such cows. On receipt of a report that milk from diseased cows is being brought into this city the health commissioner shall issue an order forbidding its sale in the City of St. Louis until such time as the health commissioner is satisfied by approved veterinary certificate that such diseased cows have been separated from the balance of the herd; and if the parties who shall have been served with such order fail to obey the same, the health commissioner is hereby empowered to give notice to the citizens of St. Louis through the newspapers

doing the city printing, stating all the facts in the case, and to warn them against the use of such milk. And said parties may be proceeded against in the manner prescribed by the provisions of this article. (M. C., sec. 554.)

Sec. 530. Report, when cows or animals about dairy are sick.—Any person, firm or corporation having in possession a sick or diseased cow shall forthwith report said fact at the office of the health commissioner, who shall thereupon at once examine or direct any veterinary surgeon to make examination thereof. Any sick horse or other animal kept in or about stable, premises or places where milch cows are kept or milked, shall in like manner be reported. For any failure, neglect or delay in so reporting any sick or diseased cow or other sick animal, the offender shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars. (M. C., sec. 555.)

Sec. 531. Same—action of officials—when cows are sick.—If any cow be found sick or diseased the owner or the person in charge thereof shall not sell, offer for sale, exchange, deliver or keep, expose for sale, exchange or deliver the milk or cream thereof, but shall at once destroy the same. If, in the opinion of the veterinary surgeon or any inspector, said cow is afflicted with a contagious or infectious disease, he shall direct the owner or person in charge thereof to forthwith remove said cow from the premises to a place where it may not spread or cause contagion or infection. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars. If, in the opinion of, and after an examination by, the veterinary surgeon, said cow is deemed incurable, and the owner or person in charge thereof does not consent to its being killed, such official shall cause two disinterested and experienced persons to view and examine the same. If said persons agree and certify in writing that said sickness or disease is incurable and likely to spread contagion or infection, and the health commissioner, in writing, approves said finding and judgments, the veterinary surgeon shall forthwith kill said animal and see that the carcass is removed and so disposed of that it cannot be sold for human food. If cows in any dairy located outside of the city limits are found to have any contagious disease the veterinary surgeon shall mail a notice of such fact to the state authorities. (M. C., sec. 556.)

Sec. 532. Connivance of officer or employe—penalty.—Any officer or employe of the City of St. Louis who wilfully connives at or assists in a violation of the provisions of this article shall be deemed guilty of a misdemeanor, and on conviction thereof be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and shall at once forfeit his office, as provided by law in this article. (M. C., sec. 557.)

Sec. 533. Smallpox, etc., in house connected with dairy.—Whenever in any house connected with any dairy there is any case of smallpox, diphtheria, scarlet fever or typhoid fever, the sale of milk from such dairy or depot is prohibited until the disease has terminated and the premises fumigated. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than one hundred dollars. (M. C., sec. 558.)

Sec. 534. **Penalty—when none provided.**—Any person failing to comply or violating any of the provisions of this article, for which no special penalty has been prescribed, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty nor more than five hundred dollars. (M. C., sec. 559.)

ARTICLE VII.

OF INSPECTION OF MEAT, FISH, VEGETABLES AND FRUIT.

Sec. 535. **Office for, created.**—There is hereby created the office of inspector of meat, fish, game, poultry, vegetables and fruit within and for the City of St. Louis. (M. C., sec. 486.)

For Charter authority see Chart., Art. III, sec. 26, clause 7.

Sec. 536. **Four inspectors to be appointed—qualifications.**—The health commissioner, with the approval of the mayor, shall appoint four inspectors of meat, fish, game, poultry, vegetables and fruit, all of whom shall be practical butchers, and one of whom shall act as clerk. (M. C., sec. 487.)

Sec. 537. **Bonds of inspectors.**—The inspectors shall each give bond in the sum of four thousand dollars, with two or more solvent sureties, to be approved by the mayor and council, and conditioned for the faithful discharge of the duties of his office. (M. C., sec. 488.)

Sec. 538. **Salaries.**—The inspectors shall each receive a salary of one hundred dollars per month, payable monthly. (M. C., sec. 489.)

Sec. 539. **Horse and buggy.**—The inspectors shall each provide a horse and wagon and maintain the same at their own expense for the expedition of business of inspecting meat, fish, game, poultry, vegetables and fruit. (M. C., sec. 490.)

Sec. 540. **Duties of inspectors.**—The inspectors shall perform such duties as may be prescribed by ordinance, or required of them by the health commissioner or board of health. (M. C., sec. 491.)

Sec. 541. **Power of inspectors.**—Said inspectors shall have power to enter all markets, stores, houses or other places where meat, game, poultry, fish, vegetables and fruit are offered for sale for human food. When such meats, game, poultry, fish, vegetables and fruit are found on inspection to be tainted, diseased, corrupted or unwholesome from any cause, said inspector shall condemn it as unfit for human food, mutilate or mark it in such manner as they may deem best to indicate its condemnation, and order the same to be immediately disposed of otherwise than for food. (M. C., sec. 492.)

Sec. 542. **Duties of those having tainted articles—penalty.**—Any person, firm or corporation having in his, their or its possession any meat, poultry, game, fish, vegetables or fruit which is tainted, diseased, corrupted or unwholesome from any cause, shall inform the health commissioner, in writing, under oath, within forty-eight hours after notification by the inspectors, as to what disposition has been made of such meat.

poultry, game, fish, vegetables or fruit, and any such person, firm or corporation failing to comply with the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars. (M. C., sec. 493.)

Keeping putrid meat, etc., on premises nuisance, etc., see sec. 590.

Sec. 543. Penalty for offering for sale tainted articles.—Any person, firm or corporation who shall offer for sale to consumers for human food any meats, game, poultry, fish, vegetables or fruit that are tainted, diseased, corrupted or unwholesome, or meats from any cattle, hogs, sheep or calves that were unsound, sick, diseased or out of condition at the time they were slaughtered, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars. (M. C., sec. 494.)

Sec. 544. Publication of names of offenders.—Any person, firm or corporation who shall be convicted of any offense under sections 542 and 543 shall have their names and places of business published by the health commissioner conspicuously in not less than two English and two German papers, published in this city, for three days. (M. C., sec. 495.)

ARTICLE VIII.

OF POISONS.

Sec. 545. Poisons—regulations of sale.—It shall not be lawful for any person to sell any drugs, medicines, chemicals or any other article which may prove fatal or injurious when taken internally or used externally by any person if taken in such quantities that it is possible for any person to take such medicine, drug or other article by mistake without discovering such mistake, unless the same shall be plainly labeled "poison," and with the name of the article; in addition to the word "poison" such label shall contain a skull and crossbones, so as to indicate to any person handling such article that it is poisonous, and in no case shall any poisonous article be sold to a minor or other irresponsible person. (M. C., sec. 512.)

Sec. 546. Abortions—sale of drugs which produce forbidden.—No person shall be permitted to sell any drug, medicine or other article which is known by the medical profession to produce abortions, or that may have a tendency to destroy the human foetus. (M. C., sec. 513.)

Sec. 547. Prescriptions of registered graduates excepted.—The before-named sections shall not apply to prescriptions of graduates of any medical school that have registered at the office of the board of health; a list of the names of the resident physicians of the city shall be furnished any druggist or apothecary within the city limits on application to the board of health. (M. C., sec. 514.)

Sec. 548. Poisons to be sold only on prescriptions.—No apothecary, druggist or other person within this city shall sell, or permit to be sold, at retail or wholesale, except to dealers in such articles, any poisonous drug or substance, except the same shall have been prescribed or ordered by a physician for the use of the sick, or the person desiring to obtain the same shall have first been furnished with a written permit from the board of health. (M. C., sec. 515.)

Sec. 549. Drugs for external use—regulation of, to prescription and delivery.—It shall be the duty of every physician within

the city prescribing or ordering for external use any poisonous drug or substance, to state in his prescriptions or orders in plain writing, "For external use," and no apothecary or druggist shall deliver any article thus ordered without the same being properly labeled with the words, "For external use." (M. C., sec. 516.)

Sec. 550. Penalties.—Any apothecary, druggist or other person violating the provisions of the foregoing sections of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty nor more than three hundred dollars for each and every offense, to be recovered for the use of the City of St. Louis before any court or officer having competent jurisdiction. (M. C., sec. 517.)

ARTICLE IX.

OF ADULTERATED ARTICLES.

Sec. 551. Sale of adulterated provisions forbidden.—Whoever shall sell any kind of diseased, corrupted, adulterated or unwholesome provisions to be used for food or drink, shall be deemed guilty of a misdemeanor. (M. C., sec. 518.)

Sec. 552. Adulteration of food or drink forbidden.—Whoever shall adulterate, for the purpose of sale, any bread, milk or other article of food or drink whatever, with any substance injurious to health, shall be deemed guilty of a misdemeanor. (M. C., sec. 519.)

Sec. 553. Adulterations of liquids intended for drink forbidden.—Whoever shall adulterate, for the purpose of sale, any liquid or fluid used or intended for drink, with substances poisonous or injurious to health, and whoever in this city shall sell any such liquor or fluid so adulterated, shall be deemed guilty of a misdemeanor. (M. C., sec. 520.)

Sec. 554. Adulteration of drugs forbidden.—Whoever shall adulterate, for the purpose of sale, any drugs or medicine, without making the same known at the time of the sale to the purchaser, shall be deemed guilty of a misdemeanor. (M. C., sec. 521.)

Sec. 555. Sale of adulterated milk forbidden.—Whoever shall sell or offer for sale any milk adulterated with water or other substance, or any milk produced from diseased cows, shall be deemed guilty of a misdemeanor. (M. C., sec. 522.)

See sec. R. C. 499.

Sec. 556. Adulteration of candy forbidden.—Whoever shall adulterate, for the purpose of sale, any candy, taffy, caramels, drops, lozenges or other confections with barytes, or the so-called "terra alba," or with other substances poisonous or injurious to health, and whoever in this city shall sell or expose for sale any such candy, taffy, caramels, drops, lozenges or other confections so adulterated, shall be deemed guilty of a misdemeanor. (M. C., sec. 523.)

Sec. 557. Penalties.—All persons violating any of the provisions of the six next foregoing sections shall, upon conviction thereof, be fined not

less than twenty-five dollars nor more than one hundred dollars, to be recovered for the use of the city, before any court or officer, having competent jurisdiction. (M. C., sec. 524.)

ARTICLE X.

OF REGULATIONS CONCERNING THE CUTTING OF ICE.

Sec. 558. Cutting ice without permit forbidden.—No person, firm or corporation shall cut, take or remove any ice from any pond, sink hole, stream or slough or the River des Peres within the limits of the City of St. Louis without first having obtained a permit from the health commissioner so to do. (M. C., sec. 525.)

Sec. 559. Application for permit.—Any person desiring to cut or remove ice from any pond, sink hole, slough or stream or the River des Peres within the limits of the city shall make an application to the health commissioner for a permit to do so, stating the locality of the pond, sink hole, slough or stream or the River des Peres from which the ice is proposed to be cut and the purpose for which the ice is to be used, and the locality within the city where the ice is to be stored. (M. C., sec. 526.)

Sec. 560. Application to be submitted to board of health.—Before the health commissioner shall issue any such permit he shall submit the application to the board of health for its approval. (M. C., sec. 527.)

Sec. 561. Approval of application — issuance of permit.—If the board of health approve of a permit being granted to cut or remove ice from any pond, sink hole, stream, slough or River des Peres, the health commissioner shall issue to said party a permit to cut said ice. (M. C., sec. 528.)

Sec. 562. No permit for condemned places.—The board of health shall not approve of any permit to cut or remove ice from any pond, sink hole, stream or slough that has been condemned by the board of health. (M. C., sec. 529.)

Sec. 563. Permit to be limited to one block or acre.—No permit shall be issued to cover more than one block in the city limits nor more than one acre in that part of the city not laid out in blocks. (M. C., sec. 530.)

Sec. 564. Consent of owner or lessee necessary.—No permit shall be issued to cut or remove ice from any pond, sink hole, slough, stream or the River des Peres unless the owner or lessee of the property on which the pond, sink hole, slough, stream or River des Peres is located shall file with the health commissioner his or her written consent that such ice may be cut and removed. (M. C., sec. 531.)

Sec. 565. Signing and attesting of permits.—All permits to cut ice as provided for by this article shall be signed by the health commissioner, attested by the clerk of the board of health, and countersigned by the city register and comptroller. (M. C., sec. 532.)

Sec. 566. Fee for permit.—For all such permits the health commissioner shall charge a fee of one dollar, which he shall account for and pay into the city treasury. (M. C., sec. 533.)

Sec. 567. Police to arrest for cutting without permit.—It is hereby made the duty of the police officers to arrest any person found cutting or removing any ice from any pond, sink hole, slough, stream or River des Peres within the limits of the city, who has not first obtained a permit from the health commissioner as provided for in this article. (M. C., sec. 534.)

Sec. 568. Bond necessary for permit.—Before the health commissioner shall issue any such permit he shall require the parties to file a good and sufficient bond in the sum of two thousand dollars, with two or more good securities, to be approved by the mayor; said bond shall provide that the ice cut from the pond, sink hole, slough, stream or River des Peres, for which a permit has been granted by the health commissioner, shall not be sold or used for drinking purposes, and that it is to be stored in the locality mentioned in the permit, and that any violation of the provisions and stipulations as provided for in the permit shall work a forfeiture of the bond, and the same shall be collected and paid into the treasury of the city for the benefit of the City of St. Louis, and said bond, before being filed with the city register, shall be presented to the health commissioner, and the wording of the permit shall correspond exactly with the wording of the bond, so far as location and description of places from which and to which the ice is to be removed. (M. C., sec. 535.)

Sec. 569. Statement to be filed with health commissioner—penalty.—All parties bringing into, or storing ice in the City of St. Louis shall file a statement with the health commissioner, which statement shall be sworn to; said statement shall specify the locality from which the ice has been brought, and when cut, and if, in the opinion of the health commissioner said ice is only fit for the cooling of articles, he shall require said parties to give a bond and comply with all the provisions of the next preceding section. Any persons bringing or storing ice within the limits of the city without filing a statement as provided for in this section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty nor more than two hundred and fifty dollars, to be recovered as in all cases of misdemeanor, before any court having competent jurisdiction. (M. C., sec. 536.)

Sec. 570. Penalty.—Any person, firm or corporation found guilty of violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than two hundred and fifty dollars for each and every violation of this article, to be recovered as in all other cases of misdemeanor, before any court of competent jurisdiction. (M. C., sec. 537.)

ARTICLE XI.

OF REGULATIONS OF VAULTS, PRIVIES AND WATER-CLOSETS.

Sec. 571. Privy vaults to be provided.—Each and every building within the city used as a dwelling, store, livery stable, tenement house, warehouse, factory, mill or foundry, shall be furnished with suitable and lawful privy vaults or water-closets. (M. C., sec. 560.)

Sec. 572. Leaking privies, etc., penalty for maintaining.—Any owner, lessee, tenant, or agent of any building or lot of any ground in the city who shall maintain or allow to exist, about or on, said building or lot of ground any privy, privy vault, commode, cesspool or water-closet, which shall be found in an overflowing, leaking, full, filthy, stinking, insecure, defective, or unlawful condition, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than one hundred dollars for each offense; and every day on which a violation of this section exists as to any premises shall constitute a separate and distinct offense. (M. C., sec. 561.)

Sec. 573. Privy tubs to be emptied.—The owner or occupant of any premises where tubs or other vessels are used in a privy shall not permit such tubs or other vessels to remain more than one day without being emptied. (M. C., sec. 562.)

Sec. 574. When nuisances.—Every water-closet or privy constructed and used in any dwelling house or building within the limits of the city, which water-closets or privies are not connected with some public, district, [joint district] or private sewer adjoining the ground on which said building is erected and properly connected with the public sewer system of the city, shall be deemed a nuisance, except as provided in next succeeding section. (M. C., sec. 563.)

See *Hill vs. St. Louis*, 159 Mo. 159, 176. This section was originally passed before the Charter amendment creating "joint district" sewers.

Sec. 575. Privy vaults not connected with sewers—regulations of construction of—On all premises not so situated as to be accessible to the sewerage system of the city the privy vaults shall be constructed as follows: The vaults shall be sunk under the ground not less than ten feet, and shall be walled up with brick or stone, laid in hydraulic cement mortar, with bottom of same material, and shall be so constructed that the outside wall shall be at least two feet distant from the line of all adjoining lots, and also the same distance from every street or alley, and the walls shall be carried one foot above the surface of the ground, and shall be built to exclude all water from the surface, from the roof of buildings and from the city water-works. Whenever such privy vault shall become full, to within three feet of the top of the wall, it shall be emptied and its contents removed, and it shall be unlawful to build or maintain any privy vault situated as described in this section, otherwise than is herein provided. (M. C., sec. 564.)

See regulations required by sec. 2313 of R. C.

Sec. 576. Privy vaults on streets—to be connected with sewers.—The vaults, privies and water-closets in or belonging to all residences, tenements, houses, factories, stores, mills, foundries, livery stables, warehouses and hotels, located on a line of any street or alley, through which there is a public, private [joint district], or district sewer, shall be connected by the owners, lessees, or agents of such property with such public, private, [joint district] or district sewer whenever required to do so by the health commissioner, which order shall be served in the same manner as writs of summons are required to be served in civil cases, and if the owner, lessee or agent, who shall have been served with such notice, shall fail to comply with the order of the health commissioner in the time indicated in such order, then such owner, lessee or agent shall be deemed guilty of a

misdeemeanor, and on conviction shall be fined not less than fifty dollars nor more than two hundred dollars for such offense, and every day on which a violation exists as to any premises shall constitute a separate and distinct offense. (M. C., sec. 565.)

Sec. 577. Method of construction and connection.—All vaults, privies or water-closets hereafter to be constructed or connected with the sewerage system of the city shall be constructed and connected in accordance with the ordinances in relation to the same, and any other manner of constructing vaults, privies or water-closets, or of connecting the same with the sewer system of the city, shall be unlawful. (M. C., sec. 566.)

See R. C., sec. 2313.

Sec. 578. Reconstruction — notice — penalty. — Whenever the health commissioner is of the opinion that any vault, privy or water-closet is not properly connected with the sewer system of the city, or when, in his opinion, the condition of any vault, privy or water-closet is such as to be dangerous to the health of the citizens, he shall order the owner, lessee or agents of said property on which is located such vault, privy or water-closet to reconstruct or properly connect said vault, privy or water-closet with the sewer system of the city in accordance with the ordinances, and any owner, lessee or agent of property receiving such order and failing to comply with the same shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than two hundred dollars for each offense; and every day on which a violation of this order exists as to any premises shall constitute a separate and distinct offense. All orders to owners, lessees or agents to connect or reconstruct vaults, privies or water-closets under the provisions of this section shall be served in the same manner as writs of summons are required to be served in civil cases. (M. C., sec. 567.)

Sec. 579. When to be emptied and cleaned.—No privy within the limits of the City of St. Louis shall be emptied unless the health commissioner shall be satisfied that the same is absolutely necessary for the health and comfort of the inhabitants, and in such cases they shall be thoroughly cleaned by licensed vault-cleaners only, upon a permit obtained from the health commissioner. No privy shall be emptied at any other time than between the hours of nine o'clock p. m. and four o'clock a. m., unless by special permission or order of the health commissioner. (M. C., sec. 568.)

Sec. 580. Manner of cleaning.—The cleaning of all vaults or privies shall be done in such manner and time as is or may be prescribed by ordinance and without creating a nuisance, and in as inodorous a manner and as free from foul odors and gases as possible. (M. C., sec. 569.)

Sec. 581. Duty of police and sanitary officers.—It is made the duty of all sanitary and police officers to report and prosecute any and all violations of this article. (M. C., sec. 570.)

Sec. 582. Penalty for violation of preceding sections.—Any person violating the three preceding sections or any rules or regulations of the board of health, as provided for in the three preceding sections, shall be fined not less than twenty dollars nor more than three hundred dollars for each offense, and shall also be liable on his bond to any person especially damaged by the violation of such rules or regulations. (M. C., sec. 571.)

Sec. 583. Penalty.—Any person violating or failing to comply with any of the provisions of this article, and to which no special penalty is attached, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty dollars nor more than two hundred dollars. (M. C., sec. 572.)

ARTICLE XII.

OF NUISANCES*

*POWERS OF THE CITY IN GENERAL RESPECTING NUISANCES.

The Charter authorizes the city to declare, prevent and abate nuisances in general, besides conferring specific authority upon certain subjects: Charter, Art. III, sec. 26, clause sixth; see also Charter, Art. 12, secs. 4, 6, 7; Art. VI, sec. 19.

Even under the broad powers conferred upon the city by the Charter, it is not competent for the city to declare that to be a nuisance which is not such in fact: *St. Louis vs. Heitzeberg Packing Co.*, 141 Mo. 375.

The General Assembly may confer on the Municipal Assembly the power to abate nuisances and to declare what shall be deemed nuisances, and where the subject matter is *prima facie* a nuisance, or may be one under the conditions prevailing where prohibited, the determination of the Municipal Assembly is conclusive: *St. Louis vs. Stern*, 3 Mo. App. 48; *Hisey vs. Mexico*, 61 Mo. App. 248; and see cases hereinafter cited.

But the city's power can not be made so absolute as to be beyond the cognizance of the courts to determine whether it has been reasonably exercised in a given case or not: *River Rendering Co. vs. Behr*, 77 Mo. 91, l. c. 98; *St. Louis vs. Heitzeberg Packing Co.*, 141 Mo. 375, 384; *St. Louis vs. Schnuckenber*, 7 Mo. App. 536.

But in determining the question of the power of the city to designate the subject as a nuisance, if the object to be accomplished by the ordinance is conducive to public interests and to public health, especially in the exercise of the police power of the municipality, the courts will accord to the city a liberal discretion, both as to the ends sought and to the means employed, and the ordinance will be upheld, unless the act declared a nuisance unquestionably is not one: *St. Louis vs. Galt*, 179 Mo. 8, 18 and cases there cited; *Kansas City vs. McAleer*, 31 Mo. App. 433, 436; *State vs. Tower*, 185 Mo. 79.

The city cannot legalize a nuisance: *Sutton vs. P. W. Co.*, 117 Mo. App. 636.

ABATEMENT OF NUISANCES.

Trial by jury is not essential, on constitutional grounds, to a method of ascertaining the existence of a public nuisance: *St. Louis vs. Stern*, 3 Mo. App. 48.

Service of notice to abate: *St. Louis vs. Flynn*, 128 Mo. 413.

The finding of a board of health that a nuisance exists, is, in an action for failure to abate, *prima facie* but not conclusive evidence of its being a nuisance: *Kirkwood vs. Cairns*, 44 Mo. App. 88; *St. Louis vs. Schnuckenber*, 7 Mo. App. 536; but not between private persons: *Doerbaum vs. Fischer*, 1 Mo. App. 149, 151. And notice given to a Board of Health of the existence of a nuisance is not notice to the owner of the premises: *Griffith vs. Lewis*, 17 Mo. App. 605, 609.

A person injured by a nuisance (such as an unauthorized sewer put on his premises by a city) has a right to abate it, but must not be guilty of excess: *Chillicothe vs. Bryan*, 103 Mo. App. 409.

Abatement of a nuisance by a city under its Charter, while it may be a right, should not be exercised in such a way as to deprive a party of the use of his property nor destroy the same, unless absolutely necessary: *Waggoner vs. South Gorin*, 88 Mo. App. 25; *Allison vs. Richmond*, 51 Mo. App. 133.

Equity may enjoin nuisances, but its jurisdiction does not extend to enjoining structures or acts which are nuisances merely because made so by ordinance: *Rice vs. Jefferson*, 50 Mo. App. 464 (wooden structure); *Warren vs. Cavanaugh*, 33 Mo. App. 102 (quarry). But see *Harman vs. St. Louis*, 137 Mo. 494, 501 (frame house inside fire limits).

In a clear case a plaintiff may enjoin a nuisance before establishing his legal rights at law: *Harrelson vs. Ry.*, 151 Mo. 482. The establishment of the nuisance, recovery for damages and abatement of the nuisance may all be brought in one equity case: *Baker vs. McDaniel*, 178 Mo. 447, 468.

A city is not liable for not enforcing its ordinances relating to nuisances: Harman vs. St. Louis, 137 Mo. 494; Kiley vs. Kansas City, 87 Mo. 103; or for not enacting ordinances: Kirkwood vs. Cairns, 44 Mo. App. 88, 96. Nor has it any control over nuisances within its limits except as conferred by its Charter or the general law and its duties cannot exceed its powers: Martinowsky vs. Hannibal, 35 Mo. App. 70, 78.

A private individual cannot recover because of a *public* nuisance unless he shows special damages: Baker vs. McDaniel, 178 Mo. 447; Glaessner vs. Anheuser-Busch, 100 Mo. 508; Givens vs. Van Studiford, 86 Mo. 149, s. c. 72 Mo. 129; s. c. 4 Mo. App. 498; Schoen vs. K. C., 65 Mo. App. 134; Schewich vs. Co., 109 Mo. App. 406, 421 and cases cited. As in case of obstructing the highway if he is damaged differently from the public at large: Heer D. G. Co. vs. Citizens' Ry. Co., 41 Mo. App. 63, 72 and cases cited; Gay vs. M. Union Tel. Co., 12 Mo. App. 485; Glasgow vs. St. Louis, 15 Mo. App. 112; Longworth vs. Sedevic, 165 Mo. 221; Downing vs. Corcoran, 112 Mo. App. 645.

But in an action for damages because of a *private* nuisance recovery may be had for nominal damages upon mere proof of nuisance without proof of pecuniary loss: Berlin vs. Thompson, 61 Mo. App. 234; Baker vs. McDaniel, 178 Mo. 447; as for instance where a city discharges sewage into a stream flowing through plaintiff's farm, under conditions making such act a nuisance: Smith vs. Sedalia, 182 Mo. 1; see also Frick vs. Kansas City, 117 Mo. App. 489.

WHAT CONSTITUTES.

"What is a nuisance" says Judge Marshall in *St. Louis vs. Galt supra*, "is a relative question oftener than it is an abstract fact. Blackstone was wise in not attempting an explicit, invariable definition, and in confining himself to general terms. He said a nuisance 'is anything that worketh hurt, inconvenience or damage.' [3 Black. Com. 216.] The Am. and Eng. Enc. Law (2 Ed.) vol. 21, p. 682, says: 'A nuisance is literally an annoyance, and signifies in law such a use of property or such a course of conduct as, irrespective of actual trespass against others or of a malicious or actual criminal intent, transgresses the just restrictions upon use or conduct which the proximity of other persons or property in civilized communities imposes upon what would otherwise be rightful freedom'. . . . The power to prevent nuisances, to provide for the general health, is as broad as the necessity for its exercise": 179 Mo. 19-20. See also Baker vs. McDaniel, 178 Mo. 447.

For specific ordinances designating what are nuisances and the rulings thereon, see the various foot notes to the sections following, in addition to the cases in this note cited. Some instances upon the question of nuisance follow:

Smoke is not a nuisance *per se*, and an ordinance declaring as a nuisance the emission of dense black or thick gray smoke into the open air from any establishment in St. Louis, etc., irrespective of the quantity or length of time, is void: *St. Louis vs. Heitzeberg*, 141 Mo. 375. But under the recent State act authority is now granted to declare by ordinance that smoke is a nuisance; that act was upheld in an elaborate opinion discussing smoke as a nuisance in *State vs. Tower*, 185 Mo. 79. See also ordinance provisions R. C., sec. 1619 *et seq.*

Smoke Stacks when nuisances: *Whalen vs. Keith*, 35 Mo. 87; *Bank vs. Kennett*, 101 Mo. App. 370.

Dairies are not nuisances *per se*: *Mc Donough vs. Robbins*, 60 Mo. App. 156; *St. Louis vs. Schnuckenberg*, 7 Mo. App. 536. But may be regulated or prohibited by ordinance under the St. Louis Charter: *Fischer vs. St. Louis*, 194 U. S. 361; *St. Louis vs. Fischer*, 167 Mo. 654, also holding that an ordinance requiring the prior consent of the Municipal Assembly to the establishment of each specific dairy is valid.

Livery stables are not *per se* a nuisance but may become so, if so kept as to destroy the comfort of owners and occupants of adjacent premises, and are subject to regulations by ordinance under the Charter, but such authority cannot be delegated in whole or in part and an ordinance allowing adjoining lot owners to determine whether a person shall be permitted to run a livery stable in the block, is void: *St. Louis vs. Russell*, 116 Mo. 248.

Slaughter houses are governed by similar principles: *St. Louis vs. Howard*, 119 Mo. 41; see also same vs. same, 119 Mo. 47. See also *St. Louis vs. Kreutz*, 12 Mo. App. 591; *Zugg vs. Arnold*, 75 Mo. App. 68.

Pig stys and hog pens maintained in close proximity to a dwellinghouse may be a nuisance *per se* for which an action lies: Whipple vs. McIntyre, 69 Mo. App. 397; see also St. Louis vs. Stern, 3 Mo. App. 348, 354. "The keeping of swine and cattle within designated limits of the city has been declared in a number of cases to be within the police power": Fischer vs. St. Louis, 194 U. S. l. c. 370. See also Smiths vs. McConathy, 11 Mo. 517.

Stockyards are not *per se* nuisances but under certain circumstances may become such: Bielman vs. Ry., 50 Mo. App. 151.

Ponds: Holke vs. Herman, 87 Mo. App. 125. See also ordinances hereinafter in this article on this point, secs. 616, 638.

Percolating liquids and seepage: Griffith vs. Lewis, 17 Mo. App. 605.

Obstruction by dam: Scheurich vs. Co., 109 Mo. App. 406.

Pollution of streams: Smith vs. Sedalia, 182 Mo. 1; s. c. 152 Mo. 283; Missouri vs. Illinois, 200 U. S. 496 (Chicago Drainage Canal case); Schumacker vs. Shawhan, 93 Mo. App. 573.

An iron stand-pipe, not being a nuisance *per se*, the city owning the lot upon which a water company builds same, is not liable because the height and purposes for which used invite lightning strokes, and because escaping water makes the ground soggy and unhealthy: Whitfield vs. Carrollton, 50 Mo. App. 98.

Fumes from asphalt plant: Sultan vs. Parker-Washington Co., 117 Mo. App. 636.

Brick kilns are not nuisances *per se*, but may become a nuisance as dwellings are built in the vicinity: State ex rel. vs. Board of Health, 16 Mo. App. 8; Powell vs. Brick Co., 104 Mo. App. 713, 720. See also as to when they become nuisances: Kirchgraber vs. Lloyd, 59 Mo. App. 59, holding that in such case recovery may be had without showing actual pecuniary loss.

Slops and Filth thrown upon another's premises and creating a **noisome smell and stench**, constitute a nuisance. Any use of property that corrupts the atmosphere with noxious vapors and noisome smells, producing injury to property or health, or impairing the comfortable enjoyment of it in a dwelling is a nuisance inviting a recovery: Beckley vs. Sproh, 19 Mo. App. 75; **stench** from factory: Dauker vs. Co., 102 Mo. App. 723, 730.

Weeds, when a nuisance: St. Louis vs. Galt, 179 Mo. 8.

Quarries: Warren vs. Cavanaugh, 33 Mo. App. 102; Schaub vs. Perkinson Const. Co., 108 Mo. App. 122.

Street Railways laid in the streets without authority are nuisances: St. L. & M. R. Ry. vs. Kirkwood, 159 Mo. 239, 255. See also Heer D. G. Co. vs. Citizens' Ry. Co., 41 Mo. App. 63. But the cases deciding that the city cannot authorize such use of a street by a steam railway as will destroy its use as a public thoroughfare (see *infra* this note) do not apply to street railways unless they are so defectively constructed as to prevent the current use of the highway by the public in the ordinary course of travel: Placke vs. U. D. Ry., 140 Mo. 634, 637. See also Morie vs. Transit Co., 116 Mo. App. 12, 25. But see as applying the same rule to street roads: Nagel vs. Lindell Ry., 167 Mo. 89, 97.

As to difference between steam roads and street railway roads respecting the power of the city, see also State ex rel. vs. Corrigan Street Ry., 85 Mo. 263, 275, and authorities cited.

A street railway although it have authority from the city to operate on the streets, must lay its tracks on the street level, or like a steam road, if it raises its tracks and interferes with access to the abutting owner's property it is liable for the damages: Farrar vs. Electric Co., 101 Mo. App. 140.

See also note to Charter, Art. III, sec. 26, clause 2.

Steam railroads in a street so narrow that its use by the railroad will destroy the street as a highway are nuisances and an ordinance permitting it is void as permitting an unauthorized obstruction of the highway: Lockwood vs. Wabash Ry., 122 Mo. 86; Lumber Co. vs. Ry., 129 Mo. 455; Corby vs. Railroad, 150 Mo. 457; Dubach vs. Railroad, 89 Mo. 483. See also note and cases to Charter, Art. III, sec. 26, clause 2.

Private steam roads and tracks in the public streets are nuisances which the city cannot authorize: Glaessner vs. Anheuser-Busch Brew., 100 Mo. 508.

Where a railroad track is built in a street, the escape of soot, smoke and smells from the engines, obstruction of the streets by the cars, and the jarring of the buildings by the passing trains to the inconvenience, discomfort and danger of adjoining proprietors do not necessarily in law constitute a nuisance unless the road is negligently operated or built: *Randle vs. Pac. Rd.*, 65 Mo. 325; see also *Thompson vs. Macon*, 106 Mo. App. 84. But by Rev. C. sec. 1860 locomotives using Poplar street are required to be so constructed as to avoid offensive or dangerous smoke and cinders.

The rights of abutting owners as affected by steam railroads built in the streets with the consent of the city in front of their property, is fully discussed, with a resume of the authorities in this state, in the case of *De Geofray vs. Merchants' Bridge Co.*, 179 Mo. 698. It was finally held that a railroad built *on the grade* would not be a new servitude, but only on the doctrine of *stare decisis*, and that an *elevated* road was a new servitude not contemplated in the dedication of a street to the public use, and that its interference with the rights of the abutting owners must be compensated for by the railroad as a deprivation of their property for public use; and that an action for damages is barred in five years after the obstruction becomes permanent and complete.

Obstruction of a highway, when unauthorized, or if authorized when unreasonable, which necessarily impedes or incommodes the use thereof, or renders the highway dangerous, is a public nuisance at common law, and every encroachment upon any part of the highway whether upon the traveled part thereof or the sides, comes within the idea of a nuisance: *State vs. Campbell*, 80 Mo. App. 110, 113; *Seibert vs. Railroad*, 188 Mo. 657, (citing instances of obstructions held to be and others not to be unlawful, such as piers, bridges, telegraph poles, etc.); *South Highland vs. Kansas City*, 100 Mo. App. 518 (holding an obstruction with the city's consent to be revocable by the city); *Carthage vs. Light Co.*, 97 Mo. 20 (poles and wires held nuisances); *State ex rel. vs. Gravel Road Co.*, 116 Mo. App. 175 (unauthorized toll company a nuisance; the court said: "Private structures inconsistent with the primary use of the street cannot be licensed, and will constitute a nuisance even if the city undertakes to license them"); *Loth vs. Columbia Theatre Co.*, 197 Mo. 328, (with review of authorities—in that case a balcony over the street, resting on pillars, was the obstruction).

Maintaining gates at railroad crossing, though the supports be partly in the street, but leaving ample room for travel, is not a nuisance: *Seibert vs. Railroad*, 188 Mo. 657.

Obstruction of Mississippi river as a highway see *State ex rel. vs. Longfellow*, 169 Mo. 109; also note to *Chart. Art. I, sec. 2, p. 296*; and for city's authority to control, guide and deflect current, see *Chart. Art. III, sec. 26, clause 4*.

Temporary obstruction for a reasonable time, by building material or repair material, permissible: See ordinance R. C., sec. 928 and cases there cited in note; *Hesselbach vs. St. Louis*, 179 Mo. 505; *Corby vs. Ry.*, 150 Mo. 1. c. 469-470; *Frick vs. Kansas City*, 117 Mo. App. 489 (dirt pile on street from excavation of sewer).

The duty and power of the city to provide safety precautions in the streets carries with it a discretion not subject to judicial review unless so exercised as to amount to a practical destruction of the street for street purposes or withdrawal from public use: *Seibert vs. Railroad*, 188 Mo. 657, 673.

Obstruction of streets so as to interfere with abutting owner's special right of ingress and egress: *Downing vs. Corcoran*, 112 Mo. App. 645, 649 and cases cited.

See note and cases on what uses a street may be used for, appended to *Charter, Art. III, sec. 26, clause 2*.

Cellar doors and coal holes in the highway are not nuisances *per se*: *Fehlhauer vs. St. Louis*, 178 Mo. 635. Liability of city or owner to injured pedestrians, etc.: see *Perrigo vs. St. Louis*, 185 Mo. 274, and cases cited.

Buildings or stands in a public street are nuisances: *Schopp vs. St. Louis*, 117 Mo. 131 (where spaces in front of business houses were leased by ordinance). See *supra* as to obstructions in the highway.

Awning on a sidewalk not necessarily a nuisance: *Hisey vs. Mexico*, 61 Mo. App. 248, 253.

Fire engine house, erected by city, is not *per se* a nuisance: *Van De Vere vs. Kansas City*, 107 Mo. 83, 92.

Bawdy houses are nuisances *per se*, unless authorized by law and conducted in accordance therewith; and even when authorized if the inmates so indecently conduct themselves as to render property adjoining undesirable they become common nuisances: *Givens vs. Van Studdiford*, 86 Mo. 149; *Ashbrook vs. Dale*, 27 Mo. App. 649. See as to ordinance provisions R. C., secs. 1518, 1520, and notes thereto; also Charter, Art. III, sec. 26, clause fifth.

FIRST—WHAT CONSTITUTE.

Sec. 584. Sinks, basins, etc., regulation—penalty.—All sinks, basins and stationary tubs in every hotel, lodging, tenement, boarding-house, or other dwelling in the city shall be provided with proper stench traps, directly under each sink, basin or stationary tub, so connected with waste or soil pipe, and so constructed, and with the traps so adjusted as to prevent the escape therefrom of foul odors and gases to the annoyance, injury or inconvenience of any person within the city. Any person or persons violating any of the provisions of this section shall, upon conviction, be fined not less than twenty nor more than five hundred dollars, to be recovered for the use of the City of St. Louis, before any court or officer having competent jurisdiction. (M. C., sec. 573.)

Sec. 585. Stables, etc.—Whenever any stable, stall, shed, or apartment, or any yard or appurtenance thereof, in which any horse, cattle, cows or swine, or any other animal shall be kept, or any place within the limits of the city, in which manure or liquid discharges of such animal shall collect or accumulate, and which stable, stall, shed or apartment, or any yard or appurtenance thereof, is not kept in a cleanly and wholesome condition, so that no offensive smell shall be allowed to escape therefrom, it shall be deemed a nuisance; provided, that nothing in this section shall be so construed as to include manure deposits upon any private property for the purpose of cultivating the same. (M. C., sec. 574.)

A **livery stable** is not a nuisance *per se* but may become such if so kept as to destroy the comfort of the neighbors or impair the value of their property: *St. Louis vs. Russell*, 116 Mo. 248, 259 and authorities. See also note at heading of this article; and further note to section 625 hereinafter.

Sec. 586. Cows or hogs not to be kept in pens.—No distiller, butcher, stock-dealer or other person shall collect or keep any cows or hogs in a pen, or otherwise confine any hog or hogs in the city so as to create any nuisance. (M. C., sec. 575.)

Sec. 587. Hogs not to be enclosed over forty-eight hours.—It shall not be lawful for any person or persons to keep in any inclosure, or otherwise, any hogs within the city for a period exceeding forty-eight hours, to the annoyance, injury, inconvenience or detriment of any person within the city. (M. C., sec. 576.)

Sec. 588. Hog-pens, stables, etc.—All pig-pens, lots, stables, yards, sheds or stys, in which pigs are kept within the limits of the city to the annoyance, injury, inconvenience or detriment of any person within the city, shall be deemed a nuisance. (M. C., sec. 577.)

See Chart., Art. III, sec. 26, clause 6. A hog pen or pig sty maintained in close proximity to a dwelling house is a nuisance *per se*: *Whipple vs. McEntyre*, 69 Mo. App. 397; *Smiths vs. McConathy*, 11 Mo. 517; *St. Louis vs. Stern*, 3 Mo. App. 54.

Sec. 589. Filthy water, nauseous liquid waste, etc.—misdemeanor—penalty—Any person, firm or corporation, being the owner.

agent, tenant, lessee, occupant or manager of any hotel, boarding house, lodging house, dwelling house, tenement house, manufactory, hide house, tannery, pork house, market house, laundry, fish house, soap factory, brewery, distillery, butcher shop, dyeing establishment, soap boiling works, rendering works, oil factory, bone works, glue factory, sausage house, dairy, cow stable, cow lot, cattle pen or livery stable, built or maintained on any lot of ground, who shall allow to accumulate or be discharged from such places onto or in any public street, alley or private property in the city, urine, liquid waste from stables, swill, water from privy vaults, waste water from sinks, wash water, or any foul or nauseous liquid waste of any kind whatever, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than one hundred dollars, to be recovered for the use of the City of St. Louis, before any court having competent jurisdiction. (M. C., sec. 578.)

Sec. 590. Putrid meat, vegetables, offal, etc.—misdemeanor — penalty.— Any person or owners, agent, lessees or occupants of any building, yard or lot of ground, who shall allow to accumulate or remain in or on said building, yard or lot of ground, any putrid and unsound meat, pork, fish, hides, decayed vegetables or food, manure, filthy ash heaps, garbage, offal, rubbish, dirt or filth of any kind, which, by its decay or putrefaction, could or would become offensive to human beings or detrimental to health, or shall create a nuisance, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than one hundred dollars, to be recovered for the use of the City of St. Louis, before any court having competent jurisdiction. (M. C., sec. 579.)

See sec. 542 R. C. See *Danker vs. Mnfg. Co.*, 102 Mo. App. 723, 727.

Sec. 591. Notice necessary before conviction.—In the trial of any person charged with a misdemeanor, as defined by the next two preceding sections, it must be shown that said party has been notified by the officers of the health department or by a notice served by the city marshal to remedy the matter complained of, and that he or she has failed to obey such notice. (M. C., sec. 580.)

Sec. 592. Duty of police.—It shall be the duty of all police officers to watch for any violation of the above sections and to report at once all the facts to the office of the health commissioner. (M. C., sec. 581.)

Sec. 593. Above sections construed.—Nothing in the next four preceding sections shall be so construed as to interfere with the duties and powers of the board of health and health commissioner in the condemnation and abatement of all matters defined by law as nuisances. (M. C., sec. 582.)

Sec. 594. Terms defined.—The words filthy ash heaps, whenever used in this article, shall be held to include cinders, coal and everything that usually remains after fires that has been mixed with garbage or filth of any kind; the word rubbish shall be held to include all loose and decayed material and dirt-like substances that attends use or decay, or which accumulates from building, storing or cleaning; the word garbage shall be held to include every accumulation of both animal and vegetable matter, liquid or otherwise, that is received from kitchens, and also all putrid and unsound meat, beef, pork, fish, decayed or unsound vegetables or fruits; the word tenement house shall be taken to mean and include every house, building or portion thereof which is rented, leased or hired out to be occupied as the home or residence of more than two families living independent of one another. (M. C., sec. 583.)

Sec. 595. Who liable.—Whenever any owner or agent of any building in the City of St. Louis shall rent, lease or hire out to be occupied any building or part thereof as a home or residence of more than two families living independent of one another, or a building to different persons for stores and offices in said building, giving to each family or person the common right to halls, yards, water-closets or privies, or some of them, then such owner or agent shall be liable for the condition of said halls, yards, water-closets or privies, and said owner or agent may also be made a defendant in a prosecution for the violation of the provisions of this article, and be subject to fine, the same as the occupant of the premises, and any prosecution for violation of this article may be maintained against the occupants, owner or agent of the premises or either or all of said parties. (M. C., sec. 584.)

Sec. 596. When owner or agent liable.—Owners or agents shall only be held responsible under the provisions of this article where buildings are rented to different persons, as described in section 595, this article. (M. C., sec. 585.)

Sec. 597. Burning of straw, etc., in vacant lots forbidden.—No person shall burn on any street, alley, vacant lot, or in any building in the city, any manure, straw, garbage, or any refuse of any kind or description. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten nor more than one hundred dollars, to be recovered for the use of the city, before any court having competent jurisdiction. (M. C., sec. 586.)

See R. C. sec. 224; also sec. 1242.

Sec. 598. Dead animals, filth, etc., to be kept from streets.—No person shall deposit any dead animal or excrements or filth from privies or any hay or straw or dirt or rubbish of any kind or description or any filthy water or manure upon any streets, alleys or public or private property in this city. Any person found guilty of violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than five nor more than fifty dollars; provided, that nothing in this section shall be so construed as to include manure deposited upon any private property for the purpose of cultivating the same. (M. C., sec. 587.)

Dead animals: Burying dead animals in city limits prohibited: R. C. sec. 670; carcasses of animals when nuisance R. C. sec. 684. Police to enforce sec. 598: see R. C. sec. 1226; also see next section below. Under the constitution of Missouri an ordinance is void which undertakes to confer upon one person the right to remove and convert to his own use the carcasses of all dead animals, not slain for food, found within the limits of the city to the exclusion of the right of the owners of the same to remove and use them before they become a nuisance because of the undoubted property right of the owner which such regulation denies: *River Rendering Co. vs. Behr*, 77 Mo. 91. The carcass of a dead animal permitted to be near the dwelling of another may become a nuisance: *Ellis vs. K. C. St. J. & C. B. R. R. Co.*, 63 Mo. 131.

Sec. 599. Duties of police.—It shall be the duty of the police within their respective districts to watch for and arrest persons throwing or permitting to be thrown from their premises into any street, alley, market place, sidewalk or gutter any filth or other matter prohibited by the next preceding section. (M. C., sec. 588.)

Sec. 600. Slaughter houses to be whitewashed.—Every slaughter house shall be whitewashed at least once in each month between the first of April and the first of November, and any person having charge or control thereof who shall fail so to do shall be deemed guilty of a misdemeanor. (M. C., sec. 589.)

Sec. 601. Slaughter houses, etc.—when nuisances.—If any owner or owners, occupier or occupiers of any slaughter house, market or meat shop, wherein any hogs, beeves or other animals are slaughtered or sold, either in said slaughter house or on the premises of said owner or owners, occupier or occupiers, shall permit the same to remain unclean, the same shall be deemed a nuisance. (M. C., sec. 590.)

See note to next section. When slaughter houses are nuisances: See note to heading of this article; see also note to sec. 625.

Sec. 602. Slaughter houses—how constructed and drained.—No butcher or other person shall kill or slaughter any beeves, sheep or other animal within the city, unless the house, yard, pen or place where such killing shall take place be provided with a tight plank floor, or be paved with brick or stone, laid in cement; if paved with brick or stone, then the earth below it shall be sufficiently solid to prevent its becoming a receptacle of filth and offensive matter. The pavement in every case shall be made with a descent towards a gutter, which shall pass through the same, and leading to a public, district, joint district or private sewer; and no slaughtering shall be done in any slaughter house not provided with a sewer connection or with suitable tubs to be emptied daily. (M. C., sec. 591.)

Slaughter houses—Assembly may provide “for the erection, management and regulation of slaughter houses” and regulate the slaughtering of animals. Charter III, sec. 26, par. 6, and sec. 34. See: St. Louis vs. Howard, 119 Mo. 47; Slaughter House cases, 16 Wall. 36. See also R. C. secs. 624 and 625 below as to what necessary before slaughter house can be set up.

Sec. 603. Green, unsalted hides not to be kept over six hours.—No person shall keep in this city any green or unsalted hides for a period exceeding six hours. (M. C., sec. 592.)

Sec. 604. Bone, fat or glue business a nuisance — when—The business or any part thereof, or any or either of them, of bone-crushing, bone-boiling, bone-grinding, bone-burning, bone-drying, fat burning, fat-boiling, fat-rendering, fat drying, gut-cleaning or the making of glue or the manufacturing of fertilizing material of any kind or description, from any dead animal, or parts thereof, or any boiling of offal, swill, fat or grease of any description which shall be done or carried on in an offensive, unclean or defective manner in any building, yard, or lot of ground within the limits of the city shall be deemed a nuisance. (M. C., sec. 593.)

See note to Charter, Art. III, sec. 26, clause 6; and *ib.* sec. 34.

Sec. 605. Soap factories, etc.—when nuisances—If any owner or owners, occupier or occupiers of any soap factory, candle factory, oil factory, glue factory, hemp factory, varnish factory, pork house, sausage house, lard house or place where lead is corroded by manure, shall permit the same to remain unclean, or conduct their business to the annoyance of the citizens of this city, or any of them, the same shall be deemed a nuisance. (M. C., sec. 594.)

Sec. 606. **Unclean drains, etc., nuisances.**—Any unclean, stinking, foul, defective or filthy drain, ditch, tank or gutter, or any leaking, broken stop, garbage or manure boxes or receptacles of like character, whenever or wherever found within the limits of the City of St. Louis, shall be deemed a nuisance. (M. C., sec. 595.)

Sec. 607. **Garbage, etc., nuisance—when**—All vegetable waste, litter, garbage, filth or refuse of any nature, kind or description whatsoever found in or upon any private alley, yard or area within the limits of the City of St. Louis, shall be deemed a nuisance. (M. C., sec. 596.)

As to garbage see R. C., secs. 1196 and following.

Sec. 608. **Foul liquids—not to be discharged into ponds or public places**—No distiller, butcher, soap boiler, tallow chandler or dyer in this city shall himself, or by any other, discharge out of or from any still house, slaughter house or work shop, foul or nauseous liquid of any kind whatever, into a pond or adjacent ground or into any street or public place. (M. C., sec. 597.)

Sec. 609. **Putrid fat or other matter not to be collected or used.**—No soap boiler, butcher or tallow chandler, shall keep, collect or use or cause to be kept, collected or used, in this city, or within one mile thereof, any stale, putrid or stinking fat or grease or other matter, or render or fry out the same, unless done in an inoffensive manner. (M. C., sec. 598.)

Sec. 610. **Rags and refuse—when nuisance.**—Whenever there shall be found in or upon any lot or piece of ground within the limits of the city, any dirt gathered in cleaning yards, waste of mills or factories, or any rags, damaged merchandise, wet, broken or leaking barrels, casks or boxes, or any materials which are offensive or tend by decay to become putrid or to render the atmosphere impure or unwholesome, the same shall be deemed a nuisance. (M. C., sec. 599.)

Sec. 611. **Sewers—to be free from nuisances.**—No person shall in this city deposit or throw into any sewer, sewer inlet or privy vault which has a sewer connection, any article whatever that may cause the sewer to choke up or otherwise create a nuisance. (M. C., sec. 600.)

Action for damages: *Thomas vs. Cannery Co.*, 68 Mo. App. 350. See also Rev. Code, secs. 2318 and 2320, as to obstructing sewers forbidden.

Sec. 612. **Tenement houses, etc., when nuisances**—Any tenement, boarding house, lodging house or any building used for such purposes, or any part thereof, within the limits of the city, which shall be leased, let or rented, to be occupied by any person or persons, in which to dwell or lodge, and which tenement house, boarding house, lodging house or building, or any part thereof, is not sufficiently lighted or ventilated, and provided with water, and kept in a cleanly and sanitary condition, or which, any part whereof the strength, ventilation, light or sewerage is in any manner, shape or form, dangerous, insufficient or prejudicial to life or health, or which shall not be provided with adequate and properly constructed privies or water-closets, shall be deemed a nuisance. (M. C., sec. 601.)

Sec. 613. **Tenement houses, condition of construction.**—Every tenement house, boarding house, lodging house or building hereafter erected or remodeled for such purposes within the limits of the city, if intended or allowed to contain more than twenty boarders or residents, shall conform to the following conditions, namely: First, adequate sewerage and drainage of the most approved construction; second, adequate and wholesome ventilation of every room in which any person is to sleep or dwell; third, adequate chimneys or flues running through every floor, and an open fire-place or grate or stove properly connected with said chimneys or flues to each family and set of apartments; fourth, adequate and well ventilated and sewerod or vaulted privies or water-closets, so situated and easily preserved in a wholesome condition as not to become offensive to the inmates of any apartments or to any persons; fifth, adequate halls, passages and staircases and proper conveniences and receptacles for ashes and rubbish for the use of all the contemplated occupants; sixth, a cellar or an open space beneath the lowest wooden floor and story, of not less than two feet from the lowest part of the beams, and in which space or cellar no water shall stand or can accumulate; seventh, water adequately and reasonably convenient for the use of all the occupants thereof; eighth, no appurtenances or anything therewith connected that shall peril life or health; ninth, the usual and all reasonable precautions and provisions in every other particular, and adequate space for all occupants, so that the occupancy of said building or any apartment shall not be dangerous to life or health. Any and all tenement houses, boarding houses, lodging houses, or buildings embraced in this section within the limits of the city, which shall not conform to the provisions of this section, shall be deemed a nuisance. (M. C., sec. 602.)

Sec. 614. **Regulations relating to garbage and swill carts, etc.—penalty.**—Every cart, wagon or vehicle used to transport manure, garbage, swill, ashes, cinders or other loose material, in any of the streets in this city, shall be fitted with a good and substantial tight box thereon, the sides of which shall not be less than twenty-four inches high, and the tail board twenty-four inches high, so that no portion of such manure or other loose material shall be scattered or thrown into the streets; and all carts, wagons or other vehicles, used for hauling garbage, swill, or other offensive matter, shall have the box thereon closely covered with sufficient covering, or so closely fitted as to prevent the escape or flying about of any of the contents or effluvia therefrom. Every contractor or other person using any cart, wagon or other vehicle, or causing any cart, wagon or other vehicle to be used for the purpose herein named, which does not comply with the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than two hundred dollars. (M. C., sec. 603.)

See R. C. sec. 688.

Sec. 615. **Water leaking from defective hydrants, etc.—a nuisance.**—Whenever in any cellar, or basement part thereof, of any house or building within the limits of the city, there may be found water occasioned by leakage from defective hydrants, water pipes, sewer pipes, cisterns, or wells, gutters, drains, rain spouts or seepage from the surrounding earth, or the walls of any cellar or basement shall be found to be damp or moist from any of the causes named in this section, then such water, leakage, seepage or moisture shall be deemed a nuisance. (M. C., sec. 604.)

Sec. 616. **Lots containing offensive water—nuisances.**—Any lot or piece of ground within the limits of the city, on which there is a pond

or pool of unwholesome, impure or offensive water, shall be deemed a nuisance. (M. C., sec. 605.)

Ponds are not nuisances *per se*: Holke vs. Herman, 87 Mo. App. 125.

Sec. 617. Filthy water, etc., when nuisance.—Whenever from any distillery, brewery, tannery, hide house, pork house, laundry, fish house, soap factory or any yard, dwelling, store or factory, or any yard or inclosure of any kind whatsoever within the limits of the city, there is discharged into or on any street, avenue, wharf, alley, sidewalk, gutter or any vacant lot, any filthy or offensive water, smell or liquid waste or refuse of any kind of an offensive character which is offensive or which is liable to become so, the same shall be deemed a nuisance. (M. C., sec. 606.)

Distillery may be nuisance: Smiths vs. McConathy, 11 Mo. 517.

Sec. 618. Wells and cisterns—when nuisances.—Any well or cistern on any property within the limits of the city, whenever a chemical analysis shows that the water of said well or cistern is of an impure or unwholesome nature, shall be deemed a nuisance. (M. C., sec. 607.)

Reopening wells see R. C. sec. 449. The city has authority to abolish wells in the streets and an ordinance to that effect operates as a revocation of previous license to construct same, and an adjoining owner who had constructed them is not entitled to compensation: Ferrenbach vs. Turner, 86 Mo. 416.

Sec. 619. Weeds prohibited—misdemeanor, penalty.—Any owner, lessee or occupant, or any agent, servant, representative or employe of any such owner, lessee or occupant, having control of any lot of ground or any part of any lot, who shall allow or maintain on any such lot any growth of weeds to a height of over one foot, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than one hundred dollars, to be recovered for the use of the City of St. Louis, before any court having competent jurisdiction. (M. C., sec. 608.)

This ordinance is within the police power of the city to pass and is not violative of either the federal or state constitution, and is authorized by the Charter: St. Louis vs. Galt, 179 Mo. 8.

Sec. 620. Lots and blocks only included.—Nothing herein relating to weeds shall be construed as applying to any portion of the city not subdivided into blocks, or to any fields used for farming or gardening purposes. (M. C., sec. 609.)

Sec. 621. How cut and disposed of.—Weeds when cut down must be removed from the lot and disposed of in such manner as not to create a nuisance. (M. C., sec. 610.)

Sec. 622. Duty of police.—It shall be the duty of all police officers to watch for any violation of the next three preceding sections and to report at once all the facts to the office of the health commissioner. (M. C., sec. 611.)

Sec. 623. Weeds defined.—The word “weeds” as used herein shall be held to include all rank vegetable growth which exhale unpleasant and noxious odors, and also high and rank vegetable growth that may conceal filthy deposits. (M. C., sec. 612.)

The word “weeds” must be understood to mean what are commonly known to mankind and lexicographers as weeds; the ordinance does not purport to give an exclusive definition of “weeds” but on the contrary only attempts to include certain things which might possibly not be otherwise commonly understood as embraced therein: St. Louis vs. Galt, 179 Mo. 8, 13.

Sec. 624. Duty of street commissioner to remove weeds when.—It shall be the duty of the street commissioner whenever he shall be notified by the health commissioner of the existence of weeds on the public streets and alleys in the city to cause the same to be removed. (M. C., sec. 613.)

Sec. 625. Permission necessary to open stone quarry, and to build soap factory, kiln, slaughter house, livery stable, automobile shop, etc., etc.—Hereafter no stone quarry shall be opened, or brick kiln built, or soap factory, or slaughter house, or garbage works, or bone factory, or rendering factory, or livery stable, or boarding stable, or sales stable, or any other stable having accommodation for ten or more animals, or structure for the storing, caring for or repairing of automobiles, motor cars or other vehicles using oil, electricity or steam as motive power, or vitriol factory, or tannery, or candle works, shall be erected, built or established on any lot of ground in the city without permission so to do having first been obtained from the Municipal Assembly by proper ordinance; nor shall any house, shed or structure be used, altered, changed, removed or repaired so as to establish, conduct, operate, carry on or maintain any such business or occupation therein without similar authority. Any person, company of persons, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars for such offense. (Ord. 22182, amending M. C. 614.)

For Charter authority see Chart., Art. III, sec. 26, clause sixth, and sec. 34.

Ord. 22182 amended secs. 614 and 615 of the M. C. and repealed secs. 155, 156 and 157 of ord. 22022 (the building code) with which they conflicted, at least so far as provisions for livery stables were concerned.

The right of the city to require the consent of the Municipal Assembly to the establishment of a business of this kind (in that case a dairy) was upheld in the case of *Fischer vs. St. Louis*, 194 U. S. 361, affirming *St. Louis vs. Fischer*, 167 Mo. 654.

Livery stables. The former ordinance requiring the written consent of one-half the owners of the block to establishment of a livery stable was held void as a delegation of legislative power, in *St. Louis vs. Russell*, 116 Mo. 248, (holding also that a livery stable is not *per se* a nuisance).

Brick kiln. Authority by ordinance to operate a brick kiln is no defense where the brick kiln is a nuisance, and the fact that a brick kiln was established before there were any dwelling houses in its vicinity is immaterial: *State ex rel. vs. Board of Health*, 16 Mo. App. 8; *Powell vs. Brick Co.*, 104 Mo. App. 713. Kiln cannot be located within 300 feet of residence without consent of owner and occupant: Chart., Art. III, sec. 34; an ordinance to that effect upheld as reasonable: see below, in paragraph on stone quarries. A prosecution for violation of a city ordinance in erecting a brick kiln within three hundred feet of a residence does not involve the question of a nuisance and does not make that question *res adjudicata* as to the city: *State ex rel. vs. Board of Health*, 16 Mo. App. 8. A brick kiln is not a nuisance *per se*, but it is a nuisance in fact when vapors and smoke arising therefrom are productive of material discomfort to the occupants of premises in close proximity thereto, but it is not essential that pecuniary loss should result; *Kirchgraber vs. Lloyd*, 59 Mo., App. 59; *Powell vs. Brick Co.*, 104 Mo. App. 713.

Slaughter house. One who purchases a house built for and once used as a slaughter house, but which has not been so used for four years, repairs it, and begins the business of slaughtering there, "opens a slaughter house" within the meaning of the ordinance. A house in which people reside as a dwelling house is a residence within the meaning of ordinance provisions: *St. Louis vs. Kreutz*, 12 Mo. App. 591. See also as to right of city to regulate slaughter houses: *St. Louis vs. Howard*, 119 Mo. 41; *do. vs do.*, 119 Mo. 47; Charter, Art. III, sec. 26, clause 6; *ib.*, Art. III, sec. 34.

sole ground that it is prohibited by ordinance: *Warren vs. Cavanaugh*, 33 Mo.App. sole ground that is prohibited by ordinance: *Warren vs. Cavanaugh*, 33 Mo. App. 102. See as to precautions necessary for blasting R. C. sec. 1563. See Charter provisions referred to in above note, (Art. III, sec. 34) providing that no stone quarry, kiln, etc., be operated within 300 feet of a residence without the consent of the owner and occupant; an ordinance so providing was held to be valid in *St. Louis vs. Frein*, 9 Mo. App. 590 (memo. opinion).

Sec. 626. Same — buildings—exceptions.—It shall not be lawful for any person, company of persons, firm or corporation to work a stone quarry, or to operate or conduct or carry on a brick kiln, or soap factory, or a slaughter house, or a garbage works, or a bone factory, or a rendering factory, or a livery stable, or a boarding stable, or a sales stable, or a stable having accommodation for ten or more animals, or the business of storing, caring for or repairing for hire automobiles, motor cars or other vehicles using oil, steam or electricity as a motive power, or a vitriol factory, or a tannery, or candle works, in any building now existing, in the process of construction, or which may hereafter be erected, or on any lot of ground in the city, without permission so to do having first been obtained from the Municipal Assembly by a proper ordinance; nor shall any house, shed or structure now existing, in the process of construction or which may hereafter be erected, be used, altered, changed, removed or repaired so as to establish, conduct, carry on, operate or maintain any such business or occupation therein without similar authority. Any person, company of persons, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars for such offense; provided, however, that nothing in this section shall be deemed to apply to any person, company of persons, firm or corporation, in the carrying on, maintenance or conducting of such business or occupation in the premises lawfully occupied and used by them for such use or occupation at the time of the passage of this ordinance. (Ord. 22182, amend. M. C., sec. 615.)

Ord. 22182 amended secs. 614 and 615 of the M. C. and repealed secs. 155, 156 and 157 of ord. 22022 (Building Code) which was in conflict herewith.

License for livery stable see R. C. sec. 2256.

Sec. 627. Manufacture of injurious articles prohibited.—It shall not be lawful for any person, corporation or firm to erect any building for the purpose of manufacturing or producing any article, or to manufacture or produce any article, the manufacture of which is injurious to the public health, or which, in the manufacture thereof, emits an offensive odor to the extent of creating a nuisance to the surrounding inhabitants, without first having obtained the permission so to do from the Municipal Assembly by proper ordinance. (M. C., sec. 616.)

Sec. 628. Nuisance in general, defined.—Every act or thing done or made, permitted, allowed or continued on any property, public or private, by any person or corporation, their agents or servants, to the damage or injury of any of the inhabitants of this city and not herein before specified, shall be deemed a nuisance. (M. C., sec. 617.)

The state statutes after providing certain things to be nuisances (R. S. 1899, secs. 2235-2238) continues (sec. 2239) "every person who shall erect or maintain any public nuisance . . . to the annoyance or injury of any portion of the inhabitants of this state shall be deemed guilty of a misdemeanor." The state law as to nuisances does not undertake to cover all cases of public nuisances, and as to those not provided for by statute the common law remains in force: *State vs. Ball*, 59 Mo. 321. See also note introductory to this article as to what is or is not a nuisance.

Sec. 629. **Definitions of terms used in article.**—The word “tenement-house,” where it occurs in this article, shall be taken to mean and include every house, building or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the house, home or residence of more than three families, living independently of one another and doing their cooking upon the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets, or privies, or some of them. A “lodging-house” shall be taken to mean and include any house or building or portion thereof in which persons are harbored or received or lodged for hire for a single night or for less than one week at a time, or any part of which is let to any person to sleep in for any term less than one week. A “cellar” shall be taken to mean and include every basement or lower story of any building or house of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining. The phrase “boarding-house” shall be held to include every building and every story and portion thereof which is at any time or usually used, leased or occupied, or intended so to be, by any number of persons exceeding ten, as boarders thereat. The word “rubbish” shall be held to include all the loose and decayed material and dirt-like substances that attends use or decay, or which accumulate from building, storing or cleaning. The word “garbage” shall be held to include every accumulation of both animal and vegetable matter, liquid or otherwise, that attends the preparation, decay and dealing in or storage of meats, fish, fowls, birds or vegetables. (M. C., sec. 618.)

Sec. 630. **Penalty for violating provisions of article.**—Any person violating or failing to comply with any of the provisions of this article and to which no special penalty is attached, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty dollars nor more than two hundred dollars. (M. C., sec. 619.)

SECOND—ABATEMENT OF NUISANCES.*

*See Charter, Art. XII, sec. 6.

Sec. 631. **Nuisances — duty of police** — It is made the duty of all police officers to observe the sanitary condition of their districts, and, through the chief of police, to report to the health commissioner promptly any nuisance or accumulated filth found to exist in any portion of the city. (M. C., sec. 620.)

See Charter, Art. XII, sec. 4, making same provision.

Sec. 632. **Power of police and agents of board to enter premises.**—The police and such officers and agents as may be designated or employed by the board of health for that purpose are authorized to enter and examine all tenements, cellars and other places within the city. If they shall find any nuisance whatever they shall report the same immediately to the board of health, unless such owner or occupant immediately cause the same to be removed. (M. C., sec. 621.)

Sec. 633. **Epidemics —proclamation in time of.**—Whenever it shall come to the knowledge of the Mayor that any malignant, infectious or contagious disease or epidemic is prevalent in the city or will probably become so, he may make proclamation of such fact to the inhabitants; and after such proclamation, the health commissioner, with the approval of the board of health, shall have power by order to take all steps and use all measures necessary to avoid, suppress or mitigate such disease, without the

intervention of the assembly, in the same manner and as effectually as the assembly could itself do by ordinance, and may employ such officers, agents, servants and assistants, establish temporary hospitals, provide necessary furniture, medical attendance and nurses as, in the opinion of the said commissioner, with the advice and counsel of said board of health, may be necessary and advisable; provided, that the amount expended shall not exceed the appropriation for the health department. The health commissioner shall have and exercise such power until he shall declare, or until the Mayor shall proclaim, that the epidemic or disease, in view of which the proclamation was made, is no longer imminent or prevalent, whereupon the said power shall cease. (M. C., sec. 622.)

This is a reiteration of the Charter provision: Art. XII, sec. 8.

Sec. 634. Decayed or dangerous articles to be destroyed.—Whenever any bedding, clothing, putrid or unsound meat, beef, pork, fish, hides, or skins of any kind, decayed or unsound vegetables or fruit, or any other article found within the city, which, in the opinion of the health commissioner, shall be dangerous to the health of the inhabitants thereof, he shall have the power and authority to cause to be destroyed any and all such articles above named in such manner as he may direct, and he may employ such persons as he may deem proper to remove or destroy such articles, and every person who shall in any manner resist or hinder any person so employed shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five nor more than one hundred dollars, and all such fines, when collected, shall be paid into the city treasury. (M. C., sec. 623.)

Sec. 635. Bedding, etc., dangerous to health, to be valued and paid for.—Whenever any bedding, clothing or household goods are found within the city, which, in the opinion of the health commissioner, shall be dangerous to the health of the inhabitants thereof, and which, in his opinion, should be removed or destroyed, he shall cause said articles to be appraised and make out a voucher in favor of the owner or owners of such property, and all such accounts, when signed by the health commissioner, shall be examined, approved and signed by a majority of the board of health and countersigned by the president or health commissioner and attested by the clerk, whereupon the auditor shall draw his warrant upon the treasurer therefor. (M. C., sec. 624.)

Sec. 636. Health commissioner—powers to abate nuisance.—Every nuisance hereinbefore mentioned, declared or defined, is hereby prohibited, and whenever the board of health shall have officially declared of record that any nuisance exists within the limits of the city, as defined by the provisions of this article, the health commissioner shall have the power to order said nuisance to be abated or removed, either by filling up, draining, cleaning, purifying, discontinuing or removing the same, as the case may be. (M. C., sec. 625.)

See *St. Louis vs. Flynn*, 128 Mo. 413, 422.

Sec. 637. Notice to abate—hearing—penalty for failure to obey order of commissioner.—Whenever any owner or owners, agent or agents, occupants or tenants, having charge of, doing business in, or occupying any house, store, building of any kind, or description, or having charge or control of, or doing business in or on any vacant lot, yard or piece of ground within the limits of the city, shall be served with a notice

from the health commissioner, ordering any nuisance to be abated or removed, either by filling up, draining, cleaning, purifying, discontinuing or removing the same, as the case may be, which notice shall be served upon the owner or owners, agent or agents, occupants or tenants having charge of, doing business in, or occupying any house, store, building of any kind or description, or having charge of any house, store, building of any kind or description, or any lot of ground where such nuisance exists, in the same manner as writs of summons are required to be served in civil cases, and whenever any owner or owners, agent or agents, occupant or tenant, who shall have been so served with such notice from said health commissioner, shall fail within the time indicated in such notice, which shall be discretionary with said health commissioner, to comply with such order, or fail to show good cause to said health commissioner why he cannot or ought not to comply with such order, for which purpose he shall be entitled to be heard before said health commissioner and board of health, if he so requests it, within five days of the receipt or service of the order from said health commissioner, then he, she or they failing or refusing to comply with said order shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than five hundred dollars, to be recovered for the use of the city, before any court or officer having competent jurisdiction; provided, however, that on the trial of the party charged with the commission of such misdemeanor, he shall have the right in his defense to contest the existence of the facts alleged to be a nuisance. (M. C., sec. 626.)

Charter, Art. XII, sec. 6. See *infra* sections 642 and following and see *St. Louis vs. Flynn*, 128 Mo. 413.

Sec. 638. Streets and alleys—commissioner to report nuisances on.—Whenever, in the opinion of the health commissioner, preservation of the health of the inhabitants of the city, or any portion thereof, requires steps to be taken to remove any causes that in his opinion are dangerous to the lives of citizens of St. Louis, or where, in his opinion, certain public work necessary to be done in a sanitary point of view, or where there exist any ponds on the dedicated streets or alleys of the city, which ponds, in the opinion of the health commissioner, are nuisances and detrimental to the public health, it shall be his duty to make a report to the board of health, setting forth all the facts in the case, which facts shall specify what matters, in his opinion, are deleterious to the public health, in what locality of the city they are situated, their character and cause, and the manner, in his opinion, in which they should be removed, and, when possible, the estimated cost of work proposed to be done. (M. C., sec. 627.)

Sec. 639. Action of board on report.—The board of health whenever the health commissioner shall make any report to them, as provided for in section 638, shall make a careful inquiry into the same; and if, in the opinion of the board of health, the sanitary measures recommended by the health commissioner are necessary and proper to be carried out, they shall so officially declare the same of record, and shall direct the work to be done in the manner as provided for hereafter in this article. (M. C., sec. 628.)

Sec. 640. Board to direct work to be done — when.—Whenever any sanitary measures are to be carried out or work to be done as provided for in this article, the board of health shall by order direct the president of the board of public improvements to cause said work to be

done in the manner and by means as shall be indicated by the board of health; and the cost of said work, when fully completed, shall be certified to by the president of the board of public improvements, and shall be approved and signed by a majority of the board of health, and when so signed and approved, that portion for which the city is liable, shall be paid out of the fund set apart for the abatement of nuisances on public property and for specific sanitary measures, and the balance by special assessments as provided in this article. (M. C., sec. 629.)

Sec. 641. When opinion of president of board of public improvements shall control.—If, in the opinion of the president board of public improvements, the work to be done, or the method proposed by the board of health for such work, are not judicious or practicable, he shall so notify the board of health, giving his reasons therefor and his recommendations in the premises; and if, in the opinion of the board of health, such reasons and opinions of the president of the board of public improvements are reasonable and proper, they may order the work to be done in the manner indicated by the president of the board of public improvements. (M. C., sec. 630.)

Sec. 642. Notice to abate nuisances.—It shall be the duty of the health commissioner, whenever he has any knowledge, or when any complaint has been made to said health commissioner by any citizen, that any business, trade or profession carried on in the city, by any person or persons or corporations, agents or managers, is detrimental to public health, or whenever any nuisance or filth exists on the property of any person or corporation, to notify such person or persons or corporation, agent or manager to show cause before the board of health at a time and place to be specified in such notice, why the same should not be abated, discontinued or removed, which notice of the health commissioner shall not be valid unless served on the party to whom it is directed at least five days before the time specified in such notice (except in case of epidemic or pestilence, when the health commissioner may, by general order, direct a shorter time). (M. C., sec. 631.)

Sec. 643. Manner of service.—Such notice shall be served upon said person, persons, corporation, agent or manager in the same manner as writs of summons are required to be served in civil cases. (M. C., sec. 632.)

See *St. Louis vs. Flynn*, 128 Mo. 413, as to service of notice, etc.

Sec. 644. Notice by publication.—If such notice cannot be given for the reason that the owner, corporation, manager, agent or other persons named in such notice, cannot be found in the city, of which fact the return upon such notice of the officer or person serving the same shall be conclusive evidence, then the health commissioner shall cause such notice to be published in the newspapers doing the city printing, for two consecutive days (Sundays excepted). (M. C., sec. 633.)

Sec. 645. Appearance—affidavit.—At the time fixed in such notice for the parties to appear before the board of health, said parties may appear in person, by attorney, or cause may be shown by affidavit. (M. C., sec. 634.)

Sec. 646. Order to abate.—After hearing all the facts in the case, if, in the opinion of the board of health, no good and sufficient cause

be shown why said nuisance, business, trade or profession should not be abated, discontinued or removed, said board shall direct the health commissioner to order the parties to abate, discontinue or remove the same within such time as the health commissioner may deem reasonable. (M. C., sec. 635.)

Sec. 647. Penalty for refusal to obey order to abate.—

Any person or persons failing or refusing to obey the order or orders of the health commissioner relating to the abatement of nuisances shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty nor more than five hundred dollars; and such person or persons shall be subject to like fines for each and every day he, she or they shall continue such nuisance, business, trade or profession after the expiration of the time specified in the order of the health commissioner for the abatement, removal or discontinuance of the same. The fines mentioned in this article shall be collected as other fines and paid into the city treasury. (M. C., sec. 636.)

Sec. 648. Abatement of pond nuisance—notice, hearing, etc.

—Whenever one or more citizens in the City of St. Louis living in the immediate vicinity of any pond or ponds of putrid or stagnant water shall notify the health commissioner that said pond or ponds are a nuisance by being dangerous to life, or detrimental to the health of the neighborhood in which they are situated, or when the health commissioner shall be notified by the police, or by some sanitary officer, of the existence of any pond of unwholesome or impure, or offensive water, he shall notify the owner, agent, lessee or occupant of the ground upon which said pond is situated, to show good cause before the board of health, at the time and place to be specified in said notice, why said pond or ponds should not be abated by filling or draining, and the cause of said nuisance removed, which notice of the health commissioner shall not be valid unless served at least five days before the time specified in such notice, and such notice shall be served in the same manner as writs of summons are required to be served in civil cases. If, after careful inquiry into the same, the said board of health shall decide that said pond or ponds are a nuisance and dangerous to life, detrimental or injurious to the health of the neighborhood, said board shall condemn the same as a nuisance, and the health commissioner shall order the abatement of the same, either by filling or draining. If the owner, agent, lessee or occupant to whom such order has been issued shall refuse or neglect to comply with the same within the time indicated in said notice, and fail to abate said nuisance, then said owner, agent, lessee or occupant shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars; and each and every day after the time specified in said notice of the health commissioner wherein said pond nuisance exists shall constitute a separate and distinct offense. (M. C., sec. 637.)

Sec. 649. Proceedings in case of nuisance—notice to board.

—Whenever, in the opinion of the health commissioner, a nuisance by reason of accumulated filth or from any cause exists within the corporate limits of the city, it shall be the duty of said health commissioner to lay such facts before the board of health. (M. C., sec. 638.)

Sec. 650. Action of board of health.—Upon the presentation of such facts it shall be the duty of the board of health to consider the same, and if, in the opinion of a majority of the members thereof, a nuisance

exists, as reported by the health commissioner, such fact shall be officially so declared of record by said board. (M. C., sec. 639.)

Sec. 651. **Notice to owner, etc., to abate.**—In order to effect the abatement of such nuisance or removal of accumulated filth the health commissioner shall at once notify the owner or owners thereof or his or their agent or the lessee or occupant of the premises upon which such nuisance or accumulated filth exists, to abate or remove the same, either by filling up, draining, cleaning, purifying or removing the same, as the case may be. (M. C., sec. 640.)

Sec. 652. **Manner of service.**—Said notice shall be served on the owner or agent or occupant having charge of said property, in the same manner as writs of summons are required to be served in civil cases. (M. C., sec. 641.)

Sec. 653. **Penalty for failure to abate—hearing—special tax-bill.**—If the person who shall have been so served with such notice shall fail, within the time indicated in such notice, which shall be discretionary with said health commissioner, to comply with such order, or fail to show good cause to said health commissioner why he cannot or ought not to comply with such order, for which purpose he shall be entitled to be heard before said health commissioner and board of health, if he so request it, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars; and the nuisance shall be abated and special tax-bills rendered against the property in the same manner as against non-residents, except that notice by advertisement shall not be necessary. (M. C., sec. 642.)

Sec. 654. **Notice by publication.**—If such service cannot be made for the reason that the owner, agent or other person having charge of the property on which the nuisance may exist cannot be found in the city, of which fact a return upon such notice of the officer serving the same shall be conclusive evidence, then the health commissioner shall cause such notice to be published in the newspapers doing the city printing for two consecutive days (Sunday excepted). (M. C., sec. 643.)

Sec. 655. **Proceedings where owner fails to abate—cost as special tax.**—If within two days after the service of such notice, or after its publication, as aforesaid, such nuisance shall not be abated or the order observed by the owner, agent or occupant, then the health commissioner may order the same to be done as hereinafter directed; and the cost of the same when fully completed, shall be ascertained under the direction of the president of the board of public improvements in the same manner as special tax bills for street improvements; and the amount thereof shall be assessed as a special tax against the property so improved, or upon which such work has been done, in the name of the owners thereof, of which the books of the assessor shall be proof, and the certified bills of such assessment shall describe therein the property upon which the work was done. (M. C., sec. 644.)

The city cannot exercise the power to abate nuisances where the owner fails, and enforce a reimbursement of the expenses by a lien on the lot, where the nuisance was created by the city itself. The city cannot create a nuisance on defendant's lot and then require him to abate it at his own charge: *Hannibal vs. Richards*, 35 Mo. App. 15; *Hannibal vs. Richards*, 82 Mo. 336.

Sec. 656. **Special tax-bills a lien.**—Said bills shall be recorded and shall be collected and paid as provided in the charter in relation to the collection of other special tax bills, and shall be a lien on said property. (M. C., sec. 645.)

Sec. 657. **Record to be kept by health commissioner.**—It shall be the duty of the health commissioner to keep a record of his proceedings in all cases of abatement of nuisances ordered by him. (M. C., sec. 646.)

Sec. 658. **Apportionment of cost.**—The cost of abating nuisances on private property shall be levied and assessed on each lot in proportion to the amount of the work done and material used in abating the nuisance located on such lot. (M. C., sec. 647.)

Sec. 659. **Same—pond nuisance abated by drainage.**—When a pond nuisance is abated by drainage, the total cost of the work and material used for the purpose of draining, shall be levied and assessed on all lots which were in whole or in part covered by the water at the time of the condemnation of said pond by the board of health; each lot to be assessed proportionately to the area of such lot covered by water at the time of its condemnation by the board of health, and such drainage may be conducted to a public, joint district or district sewer, or natural waterway. (M. C., sec. 648.)

Sec. 660. **Same—cost where pond nuisance abated by filling.**—When such pond nuisance is abated by filling, the total cost of filling shall be levied and assessed on all lots on which such filling has been done, and each lot shall be charged proportionately to the quantity of material deposited on such lot, and such filling shall be carried up to a point where the water on the lot can be drained into a public, joint district, or district sewer, or natural waterway. (M. C., sec. 649.)

Sec. 661. **Same—separate assessments—when.**—When a pond nuisance is abated by both draining and filling, separate assessments shall be made for draining and filling in the manner hereinbefore provided. (M. C., sec. 650.)

Sec. 662. **President to contract to abate nuisance—when.**—When the nuisance to be abated, discontinued or removed, is caused by defectively and illegally constructed privy vaults or cesspools, or is caused by defective, broken, leaking or improperly constructed private sewers, or is caused by failure to connect any building or lot with a public, joint district, district or private sewer accessible from the building or lot, or where a nuisance to be abated is caused by an illegally constructed, defective or dangerous plumbing or sewerage on any premises in the city, or where the nuisance to be abated is caused by the accumulation of filth in any building or lot of ground in the city; then, the president of the board of public improvements shall have the power, and it shall be his duty to enter into a contract for the abatement or removal of such nuisance, in such manner as is hereinafter provided. (M. C., sec. 651.)

Sec. 663. **When vaults and cesspools to be reconstructed.**—All defective, illegal vaults and cesspools shall be reconstructed in the manner as prescribed by the ordinances of the city in relation to vaults and cesspools. (M. C., sec. 652.)

Sec. 664. When private sewers to be reconstructed.—All defective, illegally constructed, broken, leaking, private sewers shall be reconstructed and replaced in the same manner as provided by the ordinances of the city for the construction of new sewers. (M. C., sec. 653.)

Sec. 665. When plumbing, etc., to be replaced.—All illegal, defective and dangerous plumbing and sewerage on any premises shall be reconstructed and replaced in the manner as prescribed by the ordinances of the city in relation to plumbing and sewerage. (M. C., sec. 654.)

Sec. 666. Cost to be certified.—The cost of all work as authorized by the provisions of this article shall be made up and certified to by the president of the board of public improvements. (M. C., sec. 655.)

For authority for these sections relating to special tax-bills for abatement of nuisances see Charter, Art. XII, secs. 6 and 7.

Sec. 667. Special tax bills made out—how.—Special tax bills against the property upon which the work has been done shall be made out by the president of the board of public improvements in like manner as other special tax bills. (M. C., sec. 656.)

Sec. 668. Contractor—right of to enter premises—obstruction misdemeanor.—Whenever any nuisance has been ordered to be abated under the provisions of this article, and the president of the board of public improvements has awarded a contract for doing the work, the contractor, his agents and employes shall have the right to enter upon the property on which the nuisance exists, for the purpose of abating the same, and any person or persons interfering with or hindering or obstructing the contractor or his employes in the performance of the work of abating the nuisance, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before either of the police justices of the city, shall be fined not less than twenty nor more than five hundred dollars, the same to be collected and paid as other fines for misdemeanors as are now provided for by law. (M. C., sec. 657.)

Sec. 669. Contract for work.—All contracts for work contemplated by this article on which special tax bills shall be issued shall be entered into as provided by section seven of article twelve of the charter. (M. C., sec. 658.)

See note at the beginning of this article.

ARTICLE XIII.

OF CARCASSES OF DEAD ANIMALS, AND GARBAGE OR OFFAL.*

*Those provisions in the Municipal Code relating to garbage and slops which were formerly included in this article as pertaining to the Health Department were rendered nugatory by the decision in *State vs. Butler*, 178 Mo. 272, holding that the Board of Health could not make any contract for disposal of garbage, and those duties were transferred by ordinance to the street department where they now appear: See secs. 1196 and following. Sections 674 to 703 of Mun. Code were repealed by ord. 21420; and secs. 704 to 708 of Mun. Code, as well as 709 to 714, are not included in this revision because they were special ordinances which expired by time, and they have been superseded by later ordinances; secs. of M. C. from 674-703 were repealed by ord. 20476, which so far as its substantive provisions went was declared invalid in *State vs. Butler*, *supra*, and was thereafter repealed by ord. 21417.

Sec. 670. Burying animals within city prohibited.—It shall not be lawful for any person or persons, firm or corporation, to bury the body of any dead horse, mule, cow, ox, goat, hog, sheep or dog, anywhere within the limits of the city. (M. C., sec. 659.)

See. R. C. sec. 598 as to keeping dead animals off of streets, etc.

Sec. 671. Same—on lots forbidden.—It shall not be lawful for any owner or owners, or his or their agents, or any tenant or any other person to bury or permit to be buried the carcass of any dead animal on any lot of ground or yard within the limits of the city. (M. C., sec. 660.)

Sec. 672. Animals buried in lots to be removed.—Whenever the health commissioner shall have information that there has been buried on any lot of ground or yard within the limits of the city the carcass of any dead animal, he may require, by order, the owner, agent or tenant of such lot of ground or yard to have such carcass disinterred and removed to a proper place to be steam rendered. Any person or persons, firm or corporation failing to comply with the order of the health commissioner shall be deemed guilty of a misdemeanor. (M. C., sec. 661.)

Sec. 673. Same — cost.—If the carcass of any dead animal is found to have been buried upon any public street or alley in the city, or upon any lot of ground or yard, the owner or agent of which cannot be found, the health commissioner shall have the power, if in his judgment he may deem it necessary, to have the same disinterred and delivered to the contractor for the removal of dead animals, the cost of said disinterment to be paid out of the fund for the abatement of nuisances on public property. (M. C., sec. 662.)

Sec. 674. Penalty.—Any person or persons, firm or corporation, violating or failing to comply with any of the provisions of the four preceding sections shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than two hundred nor more than five hundred dollars, the same to be recovered for the use of the City of St. Louis before any court or officer having competent jurisdiction. (M. C., sec. 663.)

Sec. 675. Duty of police.—It shall be the duty of the police to watch for and arrest all persons found violating any of the provisions of the above sections. (M. C., sec. 664.)

Sec. 676. Report as to carcasses to be made to board of health.—It shall be the duty of all agents and employes of the board of health, and of all policemen, to report to the board of health, any carcass and the remains of any dead animals which they may find, or of the existence of which within the city limits they may be informed, as soon as may be, and within three hours after such fact shall come to their knowledge, and the board of health shall enter such report in a book to be kept for that purpose, and designate therein the locality, as near as the same can be ascertained by them, where such carcass or remains were found, also, the hour when reported. (M. C., sec. 665.)

This section and the following one were amended by ordinance 22580, approved Oct. 12, 1906 (after the submission of the ordinance in revision to the assembly, so that it was too late to incorporate the amendments in the revised code). The amendments are aimed to bring the matter within the street department as well as board of health, and so as to harmonize with the ruling of the Supreme Court in the case of State vs. Butler, 178 Mo. 272. See this ordinance set out in the appendix to Revised Code.

Sec. 677. Contractor to be notified—duty of.—The aforesaid book shall at all times be open to the inspection of the public, and every person may report the existence of any carcass or the remains of any dead animals within the city limits, to the clerk of the board of health, or to any policeman or at any police station, with the person in charge thereof, who shall immediately report the same at the office of the board of health, and also notify the contractor for the removal of dead animals to remove the same within six hours, of daylight time, after receiving such notice, and upon the failure of such contractor to remove such dead animal within the time and manner in this article specified, such contractor shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be fined not less than thirty dollars for the first offense, and for every subsequent offense fifty dollars, to be recovered as fines before the police courts. (M. C., sec. 666.)

See preceding section.

Sec. 678. Carcasses not to be removed.—It shall not be lawful for any person, co-partnership of persons, or corporation, to remove, flay, steam-render, or in any other manner dispose of the carcass of any dead animal which has been abandoned by its owner, or has become a nuisance, and which is found lying upon the streets, alleys or public places of the city, or on private premises therein. (M. C., sec. 667.)

Sec. 679. Carcasses—removal of under permit.—Any person copartnership of persons, or corporation, desiring to remove the carcass of any dead animal, in whole or in part, and owned by such person, copartnership of persons or corporation, and lying upon the streets, alleys, or public places of the city, or on private premises therein, shall make application to the health commissioner for a permit so to do, stating the kind of carcass or animal to be removed, the place to and from which the same is to be taken, and the character of the products to be derived from the same, and shall give a bond to the city in the sum of five thousand dollars, to be approved by the Mayor and Council, and conditioned that none of the products of the carcass or parts of the carcass of such dead animal shall be employed or sold by them for the purposes of human food, and that all grease or other products rendered or manufactured or packed for use, or transported to or from the market in the city or elsewhere, shall be branded with a burning brand as follows: "Product of dead animals, St. Louis." (M. C., sec. 668.)

Sec. 680. Carcasses—manner of removal of.—All permits to remove a dead animal as provided by this article shall be signed by the health commissioner and attested by the clerk of the board of health, and no such dead animal shall be removed except in covered wagons, well covered with tarpaulins or otherwise, and in the most inoffensive manner possible. The drivers of teams conveying away carcasses shall not stop on the way unless detained by some accident. (M. C., sec. 669.)

Sec. 681. Permit may be recalled.—The health commissioner may at any time recall such permit if any of the rules or orders of the health commissioner are violated. (M. C., sec. 670.)

Sec. 682. When carcasses are not to be used for food.—No person, copartnership of persons or corporations shall, in the City of St. Louis, flay, cut up, sell or manufacture into human food or any other product whatsoever any carcass, or part of any carcass of any dead animal, not slain for the purpose of human food, nor of any dead animal diseased or in

an unsound or unhealthy condition at the time of its killing, unless such person, copartnership of persons or corporation shall have on their premises, within suitable inclosure, tight rendering tanks, which rendering tanks shall be so constructed so that all the escape steam shall be conducted into tanks of equal dimensions, filled with water and so constructed that all surplus steam and gases or vapors that arise after passing through such tanks of water shall be conducted under the fires of the boilers of such establishments; and, provided, further, that all such establishments engaged in the business of flaying, cutting up, selling or manufacturing product from the carcasses of dead animals, not slain for the purpose of human food, nor any diseased animals or unsound and unhealthy animals at the time of their killing, unless said persons, copartnership of persons or corporations shall give a bond to the city in the sum of ten thousand dollars, to be approved by the Mayor and Council, under the condition that none of the products or the carcasses or the parts of such dead animals heretofore described so rendered, shall be employed or sold by them for the purpose of human food, and that all packages of every kind and description of grease or other product, rendered or manufactured, or packed for use or prepared (for transportation) to or from the market in the city or elsewhere, shall be branded with a burning brand with letters at least two inches in length, as follows: "Product of dead animals, St. Louis." (M. C., sec. 671.)

Sec. 683. Penalty for violating five preceding sections.—Any person or persons, copartnership or corporation, violating any of the provisions of the next five preceding sections of this article shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than ten nor more than one hundred dollars. (M. C., sec. 672.)

Sec. 684. Carcasses—when deemed nuisances.—The carcasses of all dead animals lying on the streets, alleys or public places of St. Louis, or on private premises therein, and not slain for human food, and not removed by the owner or other person entitled thereto within six hours of daylight time after the death of such animals, are hereby declared to be nuisances, and shall be removed and disposed of as hereinafter provided. [All dead animals belonging to the city shall become the property of the contractor under this article, and shall be removed as hereinafter provided.] (M. C., sec. 673.)

This ordinance was amended by ordinance No. 22580, approved Oct. 12, 1906 (too late for incorporation in this revision). The amendment (see ordinance set out in the appendix to Rev. Code) omits the latter portion, included above in the brackets, since there is now no such contractor as therein designated. See also Rev. Code, sec. 598.

GARBAGE AND OFFAL.

Sec. 685. Garbage and offal defined.—The words garbage and offal, when used in this article, shall be held to include every accumulation of both animal and vegetable matter, liquid or otherwise, that is received from kitchens, and also all putrid and unsound meat, beef, pork, fish, decayed or unsound vegetables or fruit, the tankage from rendering establishments, and shall also be held to include refuse from slaughter houses and pork houses. (Ord. 16863, sec. 1. M. C., p. 984.)

See R. C., sec. 1198. The trimmed heads, feet and bones of cattle to which no flesh or skin clings, which are fresh and dry and emitting no offensive odor, do not fall within the definition of garbage or offal: *St. Louis vs. Robinson*, 135 Mo. 460 (construing this ordinance).

Sec. 686. Where garbage and offal not to be placed—penalty.—No person, firm or corporation shall throw, cast or deposit any garbage or offal of any kind whatever into or on any gutter, street, alley, public place, vacant lot or water course within the limits of the city, or into the River des Peres or the Mississippi river inside the boundaries of the city; any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars; and each violation thereof shall constitute a separate offense, punishable as provided herein. (*Ib.*, sec. 2.)

Sec. 687. Receptacles for garbage, etc., to be provided.—It shall be the duty of every owner, tenant, lessee and occupant of any and every dwelling, tenement house, lodging house, hotel, restaurant and boarding house to provide and at all times cause to be kept and provided, within such building or on the lot on which said building is erected, suitable and sufficient boxes, barrels or tubs for the receiving and holding, without leakage and without being filled to within four inches of the top, all the garbage, offal or liquid substances derived therefrom that accumulates on said premises within a period of thirty-six hours, and all such boxes, tubs or barrels shall be placed at all times in such places as to be readily accessible for removal and emptying, and where they shall not be a public nuisance; and no person not for that purpose authorized shall interfere with them or with the contents thereof. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than fifty dollars; and each violation thereof shall constitute a separate offense, punishable as provided herein. (*Ib.*, sec. 3.)

Sec. 688. Conditions for hauling garbage, etc., through the streets—carts, wagons, etc.—All garbage and offal shall be removed, and hauled through the streets of the city in water-tight carts, wagons or barrels only; all said carts or wagons shall be strongly built, and the sides and front and rear ends shall be so high above the load or contents that no part of such contents or load shall fall, leak or spill therefrom, and said carts or wagons shall be adequately and tightly covered, and all barrels or tubs shall have tight fitting wooden or metallic covers, and when not in use all such carts, wagons and all implements used in connection therewith shall be stored and kept in some place where no needless offense shall be given to any of the citizens of the city; and any person removing garbage or offal in any other manner, or violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than two hundred dollars; and each violation thereof shall constitute a separate offense, punishable as provided herein. (*Ib.*, sec. 4.)

See R. C., sec. 614.

Sec. 689. License necessary—terms of, etc.—No person or persons, firm or corporation, shall haul or remove garbage or offal from hotels, dwelling houses, boarding houses, restaurants or tenement houses without having first obtained from the city collector (license collector) a license to do so, and any person or persons, firm or corporation, engaged in the hauling of garbage or offal either under contract with the city or otherwise, shall pay an annual license of twenty dollars in advance for each and every cart or wagon by him or them used; said license shall be issued in the form

and under the regulations as provided for by this article. No license shall be issued by the collector (license collector) for the removal of garbage or offal unless the parties applying for such license shall first file with the collector (license collector) a certificate signed by the board of health or chief sanitary officer of the city stating that the party making such application has filed with the health department a statement as provided for in section 690 of this article. No license shall be issued for a longer period than one year, and said license shall not be transferable, and it shall be unlawful for any person or persons, firm or corporation engaged in the hauling or removal of garbage or offal to permit same to be fed to animals within the limits of the city. No license shall be issued to haul or remove garbage or offal to any rendering or converting establishment which shall be conducted in an offensive manner, or which shall at the time of making application for said license be under condemnation as a nuisance by the board of health, or which shall not have complied with all the provisions of the ordinances governing the establishment, erection and maintenance of rendering factories. Any person or persons, firm or corporation failing to comply with or violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty dollars nor more than two hundred dollars, and each violation thereof shall constitute a separate offense, punishable, as provided herein, and shall furthermore forfeit his or their license. (*Ib.*, sec. 5.)

Sec. 690. Application for removal of garbage.—All persons, firms or corporations desiring to have their garbage or offal removed by persons other than the contractor, or any persons, firms or corporations desiring to haul or remove garbage or offal, shall file with the board of health or chief sanitary officer an application, which application shall state at what point the garbage or offal is located; to what point within or without the limits of the city it is proposed to remove it; the number of carts and wagons proposed to be used; the location where the carts, barrels, wagons or tubs are kept when not in use, and that said offal and garbage is not to be fed to animals within the limits of the City of St. Louis. On the filing of such application the chief sanitary officer shall furnish to such parties a certificate to be filed with the collector; the number of which certificate shall correspond with the number on the application. (*Ib.* sec. 6.)

Sec. 691. Metallic license plate to be displayed.—All carts, wagons or other vehicles that shall be used in hauling garbage and offal from hotels, restaurants, boarding houses and dwelling houses shall have displayed on one side thereof metallic plates, having cast thereon in raised letters the words: "Licensed to remove garbage," and the figures indicating the number of the plate and the year for which the license is issued, which metallic plates shall be furnished by the city register to the collector; the record of such metallic plates shall be kept by the collector, and the number of the license shall correspond with the number on the metallic plate. Any person failing or neglecting to conform to the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, and each violation thereof shall constitute a separate offense, punishable as provided herein. (*Ib.* sec. 7.)

Sec. 692. Duties of police and garbage inspector.—It shall be the duty of the police to see that the provisions of this article are complied with, and it shall also be the duty of the garbage inspector to see that no garbage is permitted to remain upon the premises of the residents

of the city, and to report to the board of health all violations of this article that may come under his notice. (*Ib.*, sec. 8.)

Sec. 693. **Issuance of license.**—All licenses to remove garbage and offal shall be issued in blank to the collector by the register under the seal of the city and shall be in the form prescribed by law. (*Ib.* sec. 9.)

ARTICLE XIV.

OF VITAL STATISTICS.

Sec. 694. **Registration of births and deaths.**—The health commissioner shall provide for the registration of all births and deaths occurring within the city, and for that purpose it shall be the duty of every physician and midwife to report weekly to the health commissioner, at or before the hour of four o'clock in the afternoon of Saturday of each and every week, in accordance with printed forms to be furnished by said health commissioner, a statement of the sex and date of birth, of every child born in this city where they have attended the birth of such child; and in case no physician or midwife attended the birth of any child born in this city, then, and in that case, it is hereby made the duty of the father or mother to make such report to the health commissioner. (M. C., sec. 715.)

See Charter, Art. XII, sec. 4.

Sec. 695. **Physicians to report deaths.**—It shall be the duty of every physician and person engaged in the practice of medicine in the city to report to the health commissioner the death of any person under his care and treatment, when the person died, and with such particulars as the health commissioner may prescribe; and it shall also be the duty of the coroner of the city to make a weekly report to the health commissioner of all inquests and of all deaths within the city coming within his official knowledge. (M. C., sec. 716.)

Sec. 696. **Births and deaths—record of.**—The health commissioner shall keep a record of all births and deaths on file in his office. (M. C., sec. 717.)

Sec. 697. **Penalty.**—Every person whose duty it is to make any of the reports prescribed by this article shall make the same within the time as prescribed, and any person who shall fail to make such report or to comply with any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, to be recovered as in other cases of misdemeanor before any court having competent jurisdiction. (M. C., sec. 718.)

ARTICLE XV.

OF REGULATIONS CONCERNING THE PRACTICE OF MEDICINE, SURGERY OR MIDWIFERY.*

*State laws regulating practice of medicine, surgery and dentistry, 2 R. S. 1899, secs. 8507 to 8539, inclusive, laws 1901, pp. 207-210. As to definition of physician, surgeon, etc., see *Kansas City vs. Baird*, 92 Mo. App. 204.

Ordinance 22998, enacted after the Rev. Code, regulates private hospitals, lying-in establishments, institutions for the care of foundlings, orphans, etc.: See the ordinance set out in the appendix to the Rev. Code.

Sec. 698. Certificate to be filed—registration.—Every person now practicing medicine or surgery in this city, or who shall hereafter engage in such practice, shall, before continuing or entering upon such practice, exhibit his certificate obtained from the state board of health, under the provisions of the laws of Missouri, to the health commissioner, and file a copy of the same with said health commissioner, who shall thereupon enter the name of such person, the date of the filing of said copy, the date of such certificate, and the name and location of the institution at which the person was graduated, if such person should be a graduate, in a book to be kept by the health commissioner for that purpose, and shall require such person to subscribe his or her name in said book. (M. C., sec. 719.)

See note to this article on preceding page.

Sec. 699. When registration may be refused.—Whenever the health commissioner has reason to believe that the certificate exhibited is not genuine or has not been legally issued to the person presenting the same, he shall refuse to allow, the person presenting the certificate to be registered and shall forthwith refer the matter, with all the facts in the case, to the board of health, which, after a hearing, shall decide whether said person shall be allowed to register, and if the board of health shall so decide, it shall direct the health commissioner to allow said person to register, but if in the opinion of the board of health said person should not be allowed to register, the health commissioner shall not permit said person to register. (M. C., sec. 720.)

Sec. 700. Failure to comply—penalty.—Every person who shall practice or attempt to practice medicine or surgery in this city without first having complied with the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined, not less than twenty-five dollars, nor more than five hundred dollars. (M. C., sec. 721.)

Sec. 701. Burial certificate by registered physician alone to be signed.—It shall not be lawful for the health commissioner or his clerk to sign any burial certificate signed by any other than a registered physician. (M. C., sec. 722.)

Sec. 702. Interment without certificate forbidden.—If any overseer, sexton or other person having control of a graveyard shall permit any person to be interred in said graveyard without a certificate signed by a registered physician, and countersigned by the health commissioner or his clerk, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than five hundred dollars, to be recovered as in other cases of misdemeanor, before any court or officer having competent jurisdiction. (M. C., sec. 723.)

Sec. 703. Midwifery—conditions of practice.—Hereafter it shall not be lawful for any person to practice midwifery, unless such person shall first register her name and place of abode in a book in the office of the health commissioner, kept for that purpose, but no person shall be allowed to register as midwife who shall not first file a diploma from some school of midwifery in good standing, or a certificate signed by at least two registered physicians, which certificate shall state that the party named in the certificate is in their opinion qualified to practice midwifery, and any person who shall practice or attempt to practice midwifery

without first having complied with the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than fifty dollars. (M. C., sec. 724.)

Sec. 704. Druggists to comply with article.—Nothing in this article shall be so construed as to permit any druggist to engage in practice of medicine or surgery, without first having filed with the health commissioner a diploma, or certified copy thereof, in accordance with the provisions of the first two sections of this article. (M. C., sec. 725.)

ARTICLE XVI.

OF CITY HOSPITAL, FEMALE HOSPITAL, INSANE ASYLUM AND DISPENSARIES.*

*As to stationing of two firemen at each of the various city institutions see Rev. Code, sec. 288.

Ordinance 22998, enacted after the Revised Code, provides for the regulation of private hospitals, sanitariums, lying-in establishments, retreats, etc., and homes or institutions for the care of orphans, foundlings, etc.: See this ordinance in the appendix hereto.

ONE—GENERAL PROVISIONS.

Sec. 705. Hospital fund created.—There is hereby created a fund for the erection of hospital buildings. Said fund shall be used in the erection and furnishing of suitable hospital buildings for the care of the sick or insane in the City of St. Louis; and said fund shall be expended only as and when directed by ordinance. (M. C., sec. 728.)

Sec. 706. Same—sum set aside annually.—On or before the fifteenth day of May, of each year, the comptroller shall transfer from municipal revenue to fund for the erection of hospital buildings an amount equal to one per centum of the municipal revenue of the City of St. Louis for the preceding fiscal year. (M. C., sec. 729.)

Sec. 707. Health commissioner to manage.—The health commissioner shall have general superintendence and management over all the city hospitals, dispensaries and insane asylum that now are, or hereafter, may be established. (M. C., sec. 730.)

See Charter, Art. XII, sec. 4.

Sec. 708. Rules as to requisition and accounts.—All pay-rolls and requisitions for supplies or repairs for the health commissioner's office, sanitary division, hospitals, dispensary and insane asylum, shall be approved and signed by the health commissioner, and all vouchers for accounts against the health commissioner's office, sanitary division, hospitals, dispensary and insane asylum, shall be signed by the health commissioner and attested by the clerk of the health commissioner and board of health, whereupon the auditor shall draw his warrant upon the treasurer for the amount thereof. On or before the tenth day of each month the health commissioner shall submit to the board of health a statement showing the expenditures of the various divisions of the health department for the previous month, and a copy of the pay-rolls for the previous month, and if the board of health is of the opinion that the expenditures are excessive or unnecessary, it shall, if the majority of said board so decide, refer the whole matter to the Mayor, who shall take such action as he may think proper. (M. C., sec. 731.)

Sec. 709. Health commissioner—power to make rules, etc.

—The health commissioner, with the advice and approval of the board of health, shall prescribe the condition of admission to, and make all necessary rules for the government of, the hospitals, dispensaries and insane asylum. (M. C., sec. 732.)

See Charter, Art. XII, sec. 4.

Sec. 710. Students of medicine—rules of admission of.—

Students of medicine, when accompanied by a professor of any of the medical colleges in this city, all of whose faculty are registered physicians, as provided by this chapter, may be admitted to the wards and lecture rooms in the hospital at such hours and days of the week as may be designated by the health commissioner; but no lectures shall be held in the presence of the patients in said hospitals. The health commissioner shall designate to the respective medical schools visiting said hospital the days and hours they will be respectively allowed to visit said hospital. The health commissioner shall have power to suspend the exercise of the privilege herein granted to medical schools for any violation of established rules, or for any failure to comply with the provisions of this article. (M. C., sec. 733.)

Sec. 711. Surgical operations—conditions of performance of.

—No surgical operation shall be performed in any of the hospitals belonging to the city without the consent and indorsement of the superintendent thereof, nor shall any capital operation be performed in such hospital without the consent and indorsement of the superintendent, and upon consultation with one of the consulting physicians or one of the medical members of the board of health, except in cases of emergencies. (M. C., sec. 734.)

Sec. 712. Clinical lectures forbidden.—No clinical lectures shall be delivered at the bedsides of the patients, or in any wards set apart for and occupied by them. (M. C., sec. 735.)

Sec. 713. Training school for nurses—pupils to be admitted to hospital.—The pupils of the St. Louis Training School for Nurses shall be admitted to the wards and lecture rooms in the hospitals under proper rules and regulations to be framed by the health commissioner and approved by the board of health. (M. C., sec. 736.)

Sec. 714. Children—when parent of may nurse.—Whenever it shall be necessary to send to any of the hospitals any child under ten years of age, the health commissioner shall have the power, if he thinks proper, to allow the parent to go to the hospital and remain and nurse said child. (M. C., sec. 737.)

Sec. 715. Nurses—rules of selection of—superintendent—salary.*—All nurses employed by the city may, to the extent that the institution will supply the same, be selected from the pupils of the St. Louis Training School. They shall be paid monthly installments, the amount now specified by ordinance for corresponding positions. A residence in the city for two years shall not be necessary to entitle one to appointment under this and the next preceding section. One selected from said institution shall be called superintendent of nurses, and shall be paid [forty**] dollars per month, and the duties of the position shall be defined by rules and regulations prepared by the health commissioner and approved by the board

of health. All appointments under this article shall be made by the health commissioner and approved by the board of health. (M. C., sec. 738.)

*Ordinance 22935, approved March 27, 1905, enacted after the Revised Code, provides for additional nurses and is as follows:

The Health Commissioner, with the approval of the Board of Health, may appoint for service in the City Hospital, under the superintendent of City Hospital and the Superintendent of nurses, one assistant superintendent of nurses, one surgical operating nurse, three night supervising nurses and three day supervising nurses, each of whom shall be graduated trained nurses, and shall be paid fifty dollars per month, and shall perform duties which shall be defined by the rules and regulations prepared by the Health Commissioner and approved by the Board of Health; the said salaries to be paid out of the funds appropriated for salaries in the Health Department.

**Now seventy-five. By ordinance 23001 (enacted after the Revised Code) the above section was amended raising the salaries from \$40 to \$75 per month.

Sec. 716. Convalescent patients may be required to labor.—Convalescent patients may be required to perform such labor about the hospitals as may be demanded of them; provided, the superintendent is satisfied that such labor will not retard recovery. (M. C., sec. 739.)

See R. C. sec. 774.

TWO—SUPERINTENDENTS, ASSISTANTS AND EMPLOYES.

Sec. 717. Superintendents—appointment and term.—The Mayor shall appoint, with the approval of the board of health, subject to confirmation of a majority of the members of the council, a superintendent of the city hospital, a superintendent of the female hospital, a superintendent of the insane asylum, and, when necessary, a superintendent of quarantine, who shall hold their offices for a term of four years and until their successors are appointed and qualified. (M. C., sec. 740.)

See Charter, Art. XII, sec. 5. For assistant superintendents see below.

Sec. 718. Bonds of superintendents.—Said superintendents shall each give a bond to the city in the sum of five thousand dollars, conditioned on the faithful discharge of their duties and accounting of all property to the city which comes under their possession or under their control; said bond shall be secured by two or more sureties, who shall be holders of unincumbered real estate in the city, and shall be approved by the Mayor and council. (M. C., sec. 741.)

Sec. 719. Salaries of superintendents.—The superintendent of the city hospital, the superintendent of the female hospital, and the superintendent of the insane asylum shall each receive a salary of two thousand dollars per annum, payable monthly. Should the board of health at any time find it necessary to appoint a superintendent of quarantine, and should so determine, and declare the fact a matter of record, it shall report such action to the municipal assembly, which body shall thereupon fix his compensation. (M. C., sec. 742.)

Sec. 720. General duties.—Said superintendents shall have supervision of the management of the institutions under their respective charges, and shall perform their duties under the general supervision of the health commissioner. (M. C., sec. 743.)

Sec. 721. First assistants at city hospital—qualifications—salary—tenure.—The health commissioner with the approval of the board of health, shall appoint two first assistant physicians at the city hospital. Each shall have had two years' experience at the St. Louis

City Hospital. Their compensation shall be at the rate of one hundred dollars a month, and their term of service shall be limited to two years. (Ord. 21812.)

Sec. 722. Control of patients by superintendents.—Subject to the rules prescribed by the health commissioner, said superintendents shall have entire control of the patients in their respective institutions, shall be responsible for their welfare, and shall take care of them properly, and they are alone authorized to discharge patients from the institution. (M. C., sec. 744.)

Sec. 723. Control and discharge of officers and employes.—Said superintendents shall have control of the officers and employes of the institution under their respective charge, and shall have the power to discharge any of said employes or to suspend any of the assistant physicians or other officers engaged at said institutions for neglect of duty or gross violation of the rules. When the superintendent shall find it necessary to discharge any employe, or suspend any assistant physician or other officer, they shall report the fact of such discharge or suspension, and the cause of such action, to the health commissioner. If the health commissioner does not approve of the action of the superintendents in the discharge or suspension of any officer or employe, he shall refer the whole matter to the board of health, which shall take such action as it shall deem proper. (M. C., sec. 745.)

Sec. 724. Superintendents to give full time—family board and laundry furnished.—Said superintendents shall devote their whole time to the service of their respective institutions, and each of said superintendents may be permitted to allow his wife and children to reside in the institution under his charge, and such superintendent and his wife and children shall receive board and have their laundry work done at said respective institutions free of expense to them. (M. C., sec. 746.)

Sec. 725. Superintendent of quarantine—salary.—The salary of the superintendent of quarantine during the periods that there are no patients in the hospital shall be one hundred dollars per month, and he shall at such times perform the duties of steward and clerk; but during the periods when there are patients in the hospital the salary shall be one hundred and fifty dollars per month, and at such times it shall be discretionary with the health commissioner to require the superintendent to perform the duties of steward and clerk. Such compensation shall be paid upon a pay-roll duly certified by the superintendent of quarantine signed by the health commissioner and approved by the board of health (M. C., sec. 747.)

Sec. 726. Salary from what fund.—The salary of the superintendent of quarantine shall be paid out of the appropriation made for salaries of employes of quarantine and smallpox hospital. (M. C., sec. 748.)

Sec. 727. Salary runs from date superintendent qualifies.—The salary of the superintendent of quarantine shall be paid from the date on which said superintendent qualified. (M. C., sec. 749.)

Sec. 728. Assistants to superintendents—qualification and duties.—The health commissioner, with the approval of the board of health, may appoint one or more assistants to the superintendents of

the hospital and insane asylum, to serve for one year, unless sooner removed by the health commissioner. Said assistants shall be graduates of some regular medical school, and shall perform such duties as may be required of them. They shall receive boarding and washing at the hospital, but no salary shall be allowed said assistants. One of said assistants shall speak the German and English languages fluently. A residence in the city for two years shall not be necessary to entitle one to appointment under this section. All of said appointments shall be made on a competitive examination, to be conducted by the medical members of the board of health, and shall be awarded according to the merit shown by such examination. (M. C., sec. 750.)

Sec. 729. Assistant superintendent in insane asylum — appointment. — The position of assistant superintendent of the insane asylum is hereby created. The health commissioner shall appoint a physician to fill the position, said appointment to be approved by the board of health. (Ord. 20454, sec. 1.)

Sec. 730. Same — qualifications. — The assistant superintendent of the insane asylum shall be a graduate of medicine and shall have had at least six months' experience as an assistant at the insane asylum, and shall have been a resident of this city for at least two years prior to his appointment. (*Ib.* sec. 2.)

Sec. 731. Same—duties and powers. — The assistant superintendent of the insane asylum shall perform such duties as may be prescribed by the health commissioner with the approval of the board of health, and in the absence of the superintendent shall be in charge of the asylum. (*Ib.* sec. 3.)

Sec. 732. Same — salary — furnished board and washing. — The salary of the assistant superintendent of the insane asylum shall be seventy-five dollars per month, and he shall receive board and washing at the institution. (*Ib.* sec. 4.)

Sec. 733. Same—tenure of position — suspension. — The assistant superintendent of the insane asylum may be suspended by the superintendent for neglect of duty or violation of rules, and when the superintendent shall suspend the assistant, he shall at once report all the facts in the case to the health commissioner, who may take such action as he may deem proper. The assistant superintendent of the insane asylum shall hold his position subject to the pleasure of the health commissioner. (*Ib.* sec. 5.)

THREE—FEMALE HOSPITAL.

Sec. 734. Female hospital established. — The institution heretofore known as the "Social Evil Hospital and House of Industry" shall be hereafter known and designated as the "Female Hospital." (M. C., sec. 751.)

State laws governing "Social Evil Hospital and House of Industry" set forth under "Laws Specially Applicable to St. Louis," Chap. 13, *ante*, p. 161, secs. 350-354.

Sec. 735. For females exclusively. — Said hospital shall be used exclusively for the reception of females, and no male patient shall be received therein under any circumstances. (M. C., sec. 752.)

Sec. 736. **Employment.**—Each inmate committed to said hospital may be employed at such needle-work or other useful industry as she may be able to perform. (M. C., sec. 753.)

Sec. 737. **Patient may remain until, etc.**—Any convalescent inmate so desiring may, with the permission of the health commissioner remain a sufficient length of time to enable her to procure employment, or until she can be placed in communication with her friends. (M. C., sec. 754.)

Sec. 738. **Office of assistant superintendent created.**—The position of assistant superintendent of the female hospital is hereby created. The health commissioner shall appoint a physician to fill the position, said appointment to be approved by the board of health. The assistant superintendent of the female hospital shall hold his position subject to the pleasure of the health commissioner. (M. C., sec. 755.)

Sec. 739. **Same—qualifications.**—The assistant superintendent of the female hospital shall be a graduate of medicine and shall have had at least one year's hospital experience as an assistant, and shall have been a resident of this city for at least two years prior to his appointment. (M. C., sec. 756.)

Sec. 740. **Duties of assistant.**—The assistant superintendent of the female hospital shall perform such duties as may be prescribed by the health commissioner, with the approval of the board of health, and in the absence of the superintendent shall be in charge of the hospital. (M. C., sec. 757.)

Sec. 741. **Salary, etc.**—The salary of the assistant superintendent of the female hospital shall be seventy-five dollars per month, and he shall receive board and washing at the institution. (M. C., sec. 758.)

Sec. 742. **Suspension of assistant.**—The assistant superintendent of the female hospital may be suspended by the superintendent for neglect of duty or violation of rules, and when the superintendent shall suspend the assistant, he shall at once report all the facts in the case to the health commissioner, who may take such action as he may deem proper. (M. C., sec. 759.)

Sec. 743. **Supervisor of nurses and matrons.**—The health commissioner shall appoint a person to fill the position of supervisor of nurses and also act as matron, at the female hospital; said appointment to be approved by the board of health. (M. C., sec. 760.)

Sec. 744. **Same — duties of.**—The supervisor of nurses and matron at the female hospital shall have charge and control of all nurses employed at said hospital, shall also oversee the laundry, kitchen, sewing room, linen room and quarters for the female employes, and shall perform under the direction of the superintendent of the female hospital, all duties prescribed by the rules governing the female hospital. Said supervisor of nurses and matron may be removed by the health commissioner in the same manner as other employes of the health department. (M. C., sec. 761.)

Sec. 745. **Same—qualifications.**—The supervisor of nurses and matron shall be a graduate of some training school for nurses, or have had at least five years' hospital experience as a nurse, and shall have been a resident of this city at least two years prior to her appointment. (M. C., sec. 762.)

Sec. 746. **Salary.**—The salary of the supervisor of nurses and matron of the female hospital shall be fifty dollars per month and she shall receive board and washing at the institution. (M. C., sec. 763.)

§ FOUR—INSANE ASYLUM.

Sec. 747. **Established.**—The building on Arsenal street, heretofore known as the county insane asylum, and acquired by the City of St. Louis, by the ratification of the Scheme and Charter, is hereby established and shall be known as the Insane asylum of the City of St. Louis. (M. C., sec. 764.)

The insane asylum of the city is not included under the general statutes of the state as one of the eleemosynary institutions of the state but it is a private institution belonging to and controlled by the city: State ex rel. St. Louis vs. Seibert, 123 Mo. 424, 429.

See Scheme, sec. 10; *ib.* sec. 25. As to Charter provision to erect, purchase or rent insane asylums see Chart., Art. III, sec. 26, clause 3; to provide for support, maintenance and confinement of insane persons, Chart., Art. III, sec. 26, clause 13.

Ord. 22923, approved March 21, 1907, provides for the Maniacal Building on the Insane Asylum grounds.

Sec. 748. **Incurable insane—where kept.**—Such portion of the poor-house as in the opinion of the health commissioner may be necessary, shall be fitted up and used for the class of insane termed "incurable," and the health commissioner may from time to time, as he may think proper, transfer from the insane asylum in the poor-house this class of insane; but no person shall hereafter be admitted to the insane department of the poor-house who has not been regularly admitted, as provided by this article, to the insane asylum. (M. C., sec. 765.)

Sec. 749. **Health commissioner to regulate the incurable insane.**—The health commissioner, with the approval of the board of health, shall make such rules and regulations for the care and management of the insane in the poorhouse as he may deem necessary. (M. C., sec. 766.)

Sec. 750. **Indigent insane—conditions of admission to asylum.**—Before any citizen shall secure the admission of any indigent person to the city insane asylum, he or she shall present to the board of health a certificate signed by a physician of the city, duly authorized by the laws of the State of Missouri and the ordinances of the city to practice medicine, which certificate shall be properly made out in the form and manner as prescribed by the board of health, and on the blanks furnished for such purpose by said board; accompanying said certificate shall be an affidavit sworn to before a notary public or justice of the peace, which affidavit shall state the name of the party to be admitted, and that said party is insane and destitute of means; and that the natural guardians of said party are unable to support said insane person, either at their homes or at a private asylum. (M. C., sec. 767.)

Sec. 751. **Insane persons, applications for admission of—to whom made.**—All applications for the admission of insane persons shall be filed with the health commissioner at least forty-eight hours

previous to a meeting of the board of health. On the filing of said application the health commissioner shall direct an examination of said person to be made by a physician of the health department, and the report of said physician shall accompany the application then presented to the board of health. (M. C., sec. 768.)

Sec. 752. Applications to be passed on by board of health.—The board of health shall carefully examine and pass on said application, first as to the insanity of said person, second as to residence of said person, and third, as to the truth of the financial condition of the person to be admitted. (M. C., sec. 769.)

Sec. 753. Non-resident insane—rule of exclusion and exceptions. — No person not a resident of this city for at least six months prior to said person's application for admittance to the asylum shall be admitted to the insane asylum, except when in the opinion of the board of health it is necessary for the safety of lives and property of the inhabitants of this city that such person should be placed in an insane asylum. (M. C., sec. 770.)

The bringing of insane persons and paupers into the city by a common carrier or owner of a vehicle is a misdemeanor by R. C. 869. As to non-resident insane, see sec. 762. As to admission of St. Louis county patients see Scheme, sec. 25.

Sec. 754. Record of admissions to be kept.—When the board of health shall have admitted any person to the insane asylum, the record of such action shall be made in their minutes, and the health commissioner shall order said person to be admitted, but no one shall be received into the insane asylum except on an order of the health commissioner. (M. C., sec. 771.)

Sec. 755. Indigent insane from hospitals may be admitted.—When any indigent person is found in the hospitals or poor-house of the city, who shall be certified by the superintendent and physicians in charge as insane, the health commissioner may, if he thinks proper, order the removal of said person at once to the asylum, and report all facts of said case to the board of health; but all such cases shall be first examined by two physicians of the health department, and the certificate made out in regular form. (M. C., sec. 772.)

Sec. 756. Dispensary physicians—duty as to insane persons.—When application is made at the dispensary to admit any person to the hospital or poorhouse, who, in the opinion of the physician in charge, is insane, he shall decline to admit such person to the hospital, but shall at once report all the facts to the health commissioner, who shall take the same action as prescribed in the next preceding section. (M. C., sec. 773.)

Sec. 757. When insane to be taken into custody by police.—Whenever any lunatic, idiot or person of unsound mind is found by the police unprotected by guardians or friends, and in such condition as to endanger the lives and property of the citizens of the City of St. Louis, the police shall take such person into custody. (M. C. sec. 774.)

Sec. 758. Same—regulations as to disposition of.—The chief of police shall furnish the health commissioner the name, age, place of

residence, length of residence in the city, occupation, locality where said person was arrested, the circumstances causing said arrest, and all information he may have or can obtain in relation to said person. The health commissioner, on receipt of such report from the chief of police, shall cause a careful examination to be made of such person by a physician of the health department. If, upon such examination, such person is found to be of unsound mind, and an unfit person to be at large, the physician making such examination shall certify the fact to the health commissioner, whose duty it shall be to take charge of such lunatic, idiot or person of unsound mind and place said person in the city hospital or insane asylum, and to report to the board of health within one week his action thereon, and all the facts and information regarding such lunatic, idiot or insane person in his possession, or that may come into his possession. (M. C., sec. 775.)

Sec. 759. Police to deliver insane to city hospital.—The chief of police is hereby authorized and directed to deliver any and all persons taken into custody by the police on charge, observation or suspicion of insanity or lunacy forthwith to the city hospital, and shall not place any such person in the police station or holdover, commonly so-called, for detention. For the purpose of conveying such persons to the city hospital an ambulance of the health department shall be used, and the health commissioner is hereby authorized to provide from the dispensary staff a physician who shall accompany the ambulance on such trips and render such professional aid as may be required. (M. C., sec. 776.)

Sec. 760. Regulations as to care of temporarily insane at hospital.—The health commissioner is hereby authorized and directed to provide and bestow suitable and sufficient quarters at the city hospital for the reception and due care of all insane persons, or those supposed so to be, who may be sent there by proper authority for temporary treatment, or for detention and observation, pending further inquiry in relation to the mental condition of such persons. (M. C., sec. 777.)

Sec. 761. Same — duties of superintendent — commission to examine and report.—The superintendent of the city hospital shall exercise in all respects the same supervision of these inmates as of other patients, observing and recording carefully every symptom or evidence of mental derangement and reporting his conclusions in the case to the health commissioner. In every doubtful case the health commissioner shall, within one week after date of patient's admission, convene a commission composed of the superintendent of the city hospital, the superintendent of the insane asylum and the chief dispensary physician, who shall carefully examine the persons suspected to be insane and inquire into and consider all the facts in the case and report their findings to the health commissioner for such action as he shall deem proper under the law, subject to the approval of the board of health. (M. C., sec. 778.)

Sec. 762. Arrested—non-resident insane—disposition of.—Whenever any lunatic, idiot or person of unsound mind may be arrested by the police, and is found to be a non-resident of the city, the health commissioner shall report the facts to the Mayor, who shall, if he thinks proper, order the chief of police to cause such persons to be returned to the locality to which they belong, and all expenses attending the return of such person shall be borne by the city, but if the Mayor is of the opinion that it is not practicable to return such person, then the person shall be disposed of as provided in section seven hundred and fifty-eight. (M. C., sec. 779.)

Sec. 763. Insane persons — examination of required.—All insane persons, whether taken up by the police, admitted by the order of the board of health or transferred from the hospital or dispensary, shall be first examined and certified to as insane by at least one physician of the health department. (M. C., sec. 780.)

Sec. 764. Insane—indigent or pay patients—provisions for.—The board of health shall have power to admit to the insane asylum insane persons in such cases as it shall appear to the board that the estate of the person is inadequate to the care and support of such insane person at a private hospital or place for treatment and care of the insane. If it shall further appear that said insane person should be placed in restraint, then said insane person may be admitted to the asylum as a pay patient, the monthly amount to be paid for the care and treatment of said insane person to be fixed by the board of health. (M. C., sec. 781.)

Ord. 21607 (appd. Nov. 18, 1904) authorizes the Health Commissioner with the approval of the Board of Health to transfer not over 100 patients from the insane asylum to any one of the State Institutions for the care of the insane and appropriates money for their maintenance thereat.

Sec. 765. Removal of restored patients from asylum.—Whenever the superintendent of the insane asylum shall be of the opinion and belief that a patient of the said asylum has been sufficiently restored and cured to permit his being removed from said asylum on probation, he may, by and with the consent and approval of the health commissioner, permit such removal of any patient by his relatives or near friends, on being satisfied that they will properly care for, maintain and look after such patient during the time that he is in their charge. (M. C., sec. 782.)

Sec. 766. Re-admission of patients.—Should such patient, so removed, suffer a relapse while out of the asylum, he may be returned to said asylum and may be again received as an inmate thereof, if, upon an examination made by the superintendent of the insane asylum, or some physician under his direction, it is found that such patient should not longer be permitted to be at large. (M. C., sec. 783.)

FIVE—DISPENSARIES.

Sec. 767. Dispensaries—may be established.—The health commissioner may, with the approval of the board of health, establish a dispensary at his office and elsewhere, for the purpose of dispensing medical advice and medicines to such applicants as are sick and indigent. (M. C., sec. 784.)

Sec. 768. Duties of chief dispensary physicians as to jail—medicines.—The chief dispensary physician shall have charge and care of the health of the inmates of the jail, but all medicines needed for the jail shall be purchased by the commissioner of supplies, and paid out of the appropriation for the jail. (M. C., sec. 785.)

Sec. 769. Salaries of apothecaries.—When dispensaries are established and opened, as provided by ordinance, the salaries of the apothecaries shall be eight hundred dollars per annum, payable monthly. (M. C., sec. 786.)

Sec. 770. Medicines for indigent persons.—For the relief of sick and indigent persons the health commissioner shall have power to furnish medicines on the prescriptions of the dispensary physicians, and may make

such arrangement as he may think proper for the filling of these prescriptions; the cost of said prescriptions shall be paid out of the fund appropriated for the city dispensary. (M. C., sec. 787.)

ARTICLE XVII.

OF POORHOUSE.*

*See Charter provisions Art. I, Sec. 1; Art. III, Sec. 26, subd. 3, 13.

Sec. 771. Poorhouse established. — The building known as the "county poor-house," situated on Arsenal street, and acquired by the City of St. Louis by the ratification of the scheme and charter, is hereby established and shall be known as the Poorhouse of the City of St. Louis, and shall be kept for the reception and accommodation of the indigent and decrepit persons who, from physical inability or from any other cause, are incapacitated from supporting themselves, and such only shall be placed therein, by competent authority. (M. C., sec. 788.)

Sec. 772. Health commissioner has supervisory control.—The health commissioner shall have the general supervision and management of the Poorhouse, and shall exercise a general control over all the officers and employes connected with or employed at the same. He shall make all necessary rules and regulations for the government and management of the Poorhouse subject to the approval of the board of health. He shall appoint all assistants except the superintendent, determining the number to be employed, whether male or female. He shall examine all accounts against the Poorhouse, and, if he finds them correct shall so certify. All such accounts when so certified, shall be audited and paid as provided by the charter. (M. C., sec. 789.)

Sec. 773. Conditions of admission.—The health commissioner shall prescribe the conditions for admission to and discharge from the poorhouse, subject to the approval of the board of health, but no person shall be admitted to the poorhouse as an inmate who shall not have resided in the City of St. Louis at least one year next preceding the date of application for admission. (M. C., sec. 790.)

The bringing of paupers and insane persons who are likely to become a charge on the city, into the city, is made a misdemeanor as to certain persons by R. C. sec. 869.

As to admission of paupers from St. Louis county see Scheme, sec. 25.

Sec. 774. Rules of admission—inmates to be employed.—It shall be the duty of the health commissioner to make such rules and regulations as shall be approved by the board of health as will establish a system whereby the persons admitted to the poorhouse shall respectively earn what they receive to the extent of their ability; provided, that this section shall not be so construed as to exclude from the poorhouse such indigent persons entitled to admission as may be unable to work; provided, also, that no minor in good health, over eight years of age, shall be maintained at the poorhouse. (M. C., sec. 791.)

See R. C. sec. 716.

Sec. 775. Health commissioner to report conditions annually. — It shall be the duty of the health commissioner to report to the municipal assembly, at its first session in each year, a particular and detailed account of the affairs of the poorhouse, together with such suggestions or recommendations as may to him seem proper. (M. C., sec. 792.)

Sec. 776. Office of superintendent created.—There is hereby created and established the office of superintendent of the poorhouse. (M. C., sec. 793.)

Sec. 777. Same—appointment and term.—The superintendent of the poorhouse shall be appointed by the Mayor and confirmed by the council, and shall hold his office for four years and until his successor is appointed and qualified. (M. C., sec. 794.)

Sec. 778 Powers and duties of superintendent—discharge of employes. — The superintendent of the poorhouse shall have the general management of the poorhouse and control of all employes thereat. He shall have power to suspend or discharge any employe for neglect of duty or gross violation of the rules and regulations. When he shall so suspend or discharge any one he shall immediately report the fact of such suspension or discharge, and the cause thereof, to the board of health, which shall take such action in the matter as shall to it seem proper. He shall execute and carry out all rules and regulations which may be made by the health commissioner, approved by the board of health, and shall be responsible for the care and welfare of the inmates of the poorhouse. (M. C., sec. 795.)

Charter, Art. IV, sec. 14, provides that "the assistants of any officer may be removed by the officer under whom they work, at his pleasure." If the employes are assistants of the superintendent the limitation of his right to discharge is void as narrowing his charter power; if they are assistants and work under the Health Commissioner who appoints them there are two officials who may remove—the latter at pleasure, the former conditionally for cause. A number of considerations seem to suggest the latter as probably a better construction; but there seems room for question. It would seem strange if there were two officers within the Charter meaning, to each of whom the employes were "assistants" and "under whom they work" so as to authorize a discharge at the pleasure of either, when it seems that the ordinances contemplated such power in neither.

Sec. 779. Bond of superintendent.—The superintendent of the poorhouse shall give bond to the city in the sum of ten thousand dollars, conditioned upon the faithful discharge of his duties, and accounting for all property of the city which may come into his possession or under his control. Said bond shall be secured by two or more sureties, who shall be owners of unincumbered real estate in the city, and shall be approved by the Mayor and council. (M. C., sec. 796.)

Sec. 780. Qualifications and residence. — The superintendent shall possess all the qualifications prescribed in section ten, article four, of the charter. He shall reside at the poorhouse, and shall receive his board and washing at the poorhouse. He shall devote all his time to the discharge of the duties of his office. (M. C., sec. 797.)

Sec. 781. Salary. — The salary of the superintendent of the poorhouse shall be at the rate of fifteen hundred dollars per annum, payable monthly, which sum shall be in full for all services of an official nature. (M. C., sec. 798.)

Sec. 782. Dairy at poorhouse established—milk how used. —The health commissioner is hereby directed to establish a dairy on the grounds of the city poorhouse, which dairy shall be managed as provided

for by this article, and the milk derived from this dairy shall be used, first, for the supplying of the poorhouse, and as far as possible the other institutions of the health department. (Ord. 20952, sec. 1.)

Sec. 783. Dairy stable and how constructed.—After the passage and approval of this article the health commissioner shall make a requisition on the board of public improvements, to have constructed under the supervision of the building commissioner, a dairy stable which shall have a capacity for one hundred cows. This dairy stable shall in all respects be constructed in the manner as prescribed in section five hundred and forty-four, of article nine, chapter eleven of the Municipal code of nineteen hundred [now section 519 of Revised Code], and it shall so be placed on the grounds of the poorhouse that the liquid waste from said stable can be carried off into the sewers through two intervening catch basins of a plan to be approved by the president of the board of public improvements. (*Ib.*, sec. 2.)

Sec. 784. Appointment of help for dairy.—The health commissioner shall appoint all the necessary help for the caring of this dairy, in the same manner as he makes appointments of the employes of the poorhouse. (*Ib.* sec. 3.)

Sec. 785. Purchase of cows.— After the completion of the dairy, the health commissioner shall make a requisition on the commissioner of supplies for the purchase of sixty-five cows, and may afterwards, from time to time, make a requisition for additional cows whenever the same is approved of by the comptroller; the purchase of these additional cows to be paid for out of the funds that may accumulate to the credit of the dairy.—(*Ib.* sec. 4.)

Sec. 786. Price of milk fixed by comptroller.—All milk produced by the dairy and consumed by the poorhouse will be paid for at a price to be fixed by the comptroller, and whenever any milk is sold to the other institutions of the city the same price will be charged to those institutions. (*Ib.* sec. 5.)

Sec. 787. Receipts and expenses of dairy.—All receipts from the sale of milk from the city institutions shall be placed to the credit of a fund to be known as "The St. Louis Poorhouse Dairy Fund," and all expenses such as salaries, feed and purchase of new stock, will be paid for out of said fund, and at the end of each year the balance remaining to the credit of this fund shall be returned into the general revenue of the city. (*Ib.* sec. 6.)

Sec. 788. Employes and salaries—inmates perform duties.—The salaries of the employes shall be as follows: One head dairyman, who shall have charge of the dairy under the supervision of the superintendent of the poorhouse, fifty-five dollars per month; assistants, thirty-five dollars per month; not to exceed at any time three in number, and as far as possible such inmates of the poorhouse as are capable of performing work in the dairy, will be assigned to duty there by the superintendent. (*Ib.* sec. 7.)

Sec. 789. Disposition of cows becoming dry.—Whenever any of the cows belonging to the dairy become dry, and in the opinion of the health commissioner should be disposed of, he may, with the approval of

the comptroller, exchange these cows for others, and in addition pay such sums as may be deemed fair and proper in the exchange for fresh cows.— (*Ib.*, sec. 8.)

Sec. 790. Separate accounts kept — monthly statement—extraordinary expenses to be approved by comptroller.— All of the accounts connected with the poorhouse dairy shall be kept in a separate account on the books of the St. Louis poorhouse, and a monthly statement of the expenses and the amounts received from the sale of milk shall be forwarded monthly to the comptroller. No extraordinary expense shall be made on account of this dairy, unless the same shall be approved by the comptroller. (*Ib.*, sec. 9.)

Sec. 791. Cows to be examined and treated by veterinary surgeons.— All cows purchased for the use of the dairy at the city poorhouse shall be examined by the veterinary surgeons of the health department and the veterinary surgeons of the health department shall give medical attendance for these cows whenever ordered to by the health commissioner. (*Ib.*, sec. 10.)

ARTICLE XVIII.

OF REGULATIONS CONCERNING CONTAGIOUS, INFECTIOUS AND PESTILENTIAL DISEASES.*

*See Chap. 11, Art. XIX of quarantine; for charter authority for these ordinances see Chart., Art. III, sec. 26, clause 6, conferring power to prevent introduction and spread of contagious diseases; and powers of Health Commissioner and Mayor in case of epidemics, Charter, Art. XI, sec. 8. As to restriction by Charter of treating patients sick with smallpox, cholera or plague, unless authorized by ordinance, see Charter, Art. III, sec. 35.

Sec. 792. Physicians to report smallpox, etc.—It shall be the duty of each and every practicing physician of the City of St. Louis to immediately report to the health commissioner of the city each case of smallpox, typhus fever, croup, cerebro-spinal fever, diphtheria, erysipelas, measles, puerperal fever, scarlatina, typhoid fever, yellow fever, whooping cough, cholera and chicken-pox which he may see or to be called upon to attend within the limits of the city. (M. C., sec. 799.)

A similar ordinance held valid but not applicable to a Christian Scientist because not a "physician": *Kansas City vs. Baird*, 92 Mo. App. 204.

Sec. 793. Same—name and location.—In reporting cases of contagious, infectious and pestilential diseases, the physician shall be required to give the name and residence (street and number), age and color, of each case. (M. C., sec. 800.)

Sec. 794. When house not placarded—duplicate report required.— In cases of typhus fever, smallpox, diphtheria, scarlatina and cholera where the house is not placarded within thirty-six hours after the first report, duplicate report must be made. (M. C., sec. 801.)

Sec. 795. Report when disease has terminated.— Whenever any case of diphtheria, scarlatina, cholera, typhus fever, typhoid fever, smallpox and cerebro-spinal fever has terminated and there are no other cases in the same house, the physician last attending such case shall report immediately the fact to the health commissioner, so said premises may be disinfected. (M. C., sec. 802.)

Sec. 796. Penalty for failure to observe ordinances.—Any physician violating any of the provisions of this article, or failing to perform the duties required of him by this article, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty nor more than two hundred and fifty dollars, to be recovered for the use of the City of St. Louis before any court having competent jurisdiction.—(M. C., sec. 803.)

Sec. 797. Blanks for reports to be furnished.—The health commissioner shall furnish the proper blank form on which to make the reports, as required by this article. (M. C., sec. 804.)

Sec. 798. Buildings—when placarded.—Whenever any physician shall report to the health commissioner any case of smallpox or contagious disease in any dwelling or building in the city, the health commissioner shall have the power, whenever in his opinion it is necessary, to cause to be placed on the outside of any building or dwelling, or door of any room, a printed placard giving notice of the existence of such contagious disease. Any person who shall remove such placard placed by order of the health commissioner shall be deemed guilty of a misdemeanor, and upon conviction be fined not less than five nor more than twenty-five dollars. (M. C., 805.)

Sec. 799. Parents and guardians—penalties.—The parents or guardians of children attending any private or public school, who shall permit them to attend school after it becomes known to said parents or guardians that any of their family are infected with any infectious or contagious disease, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than five nor more than ten dollars. (M. C., sec. 806.)

Sec. 800. Teachers—penalties.—Any principal or teacher of any private or public school in the City of St. Louis, having official or authentic information of the existence of any infectious or contagious disease in the family of any pupil attending said school, shall immediately cause the removal of said pupil from said school, and until he (or she) shall have undoubted proof of the premises where the family reside being disinfected and the disease eradicated. Any failure on the part of any principal or teacher complying with the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in a sum not less than five nor more than ten dollars. (M. C., sec. 807.)

Sec. 801. Contagious diseases—persons afflicted to be removed to hospital.—Whenever the health commissioner shall become apprised or informed that any person or persons residing in any hotel, boarding-house or tenement house within the limits of the City of St. Louis are suffering from any malignant, infectious or contagious disease, which in his opinion or in the opinion of any medical officer of the health department, may endanger the lives of the citizens, it shall be his duty to make or cause to be made an examination of the said person or persons and the disease they are suffering from or afflicted with, by a physician or physicians of the health department, and from and after such examination, if he shall deem the same necessary, he shall cause said person or persons to be removed from the said hotel, boarding-house or tenement house to the hospital provided by the city for the treatment of all such diseases, and

if force be found necessary in causing the removal of persons suffering from such malignant, infectious or contagious disease, the health commissioner shall have the power and authority to use force if he should deem the same necessary or judicious. (M. C., sec. 808.)

Sec. 802. Diseased persons may be removed from dwellings, etc. — Whenever the health commissioner shall become apprised or informed that any person or persons residing in any private residence, house or dwelling within the limits of the City of St. Louis, are suffering from any malignant, infectious or contagious disease which in his opinion, or in the opinion of any medical officer of the health department, may endanger the lives of citizens, and which from the surroundings of the premises, the size of the house and number of persons residing therein would make it impossible to isolate the said person or persons so afflicted from all connection or contact with other persons residing in the same house (except the nurses), it shall be his duty to make or cause to be made an examination of the premises and surroundings, and also an examination by a medical officer or officers of the health department of the said person or persons, and the disease they are suffering from or are afflicted with, and from and after such examination of the premises and the person or persons, if he shall deem the same necessary, he shall cause said person or persons to be removed from said private residence, house or dwelling to the hospital provided by the city for the treatment of all such diseases; and if force be found necessary in causing the removal of such person or persons suffering from such malignant, infectious or contagious disease the health commissioner shall have the power and authority to use the same if he should deem it necessary or judicious; provided, that the health commissioner shall permit one or more members of the family of such sick person or persons to accompany the sick person or persons to the hospital, there to remain as a nurse or nurses until such sick person or persons are discharged from the hospital. (M. C., sec. 809.)

Sec. 803. Residences, etc., to be disinfected — when. — When ever any residence, or portion of the city to the extent of one residence, or one or more blocks or squares of ground, shall, in the opinion of the health commissioner, be infected with any malignant or infectious or contagious disease, he shall have the power, by and with the approval of the board of health, to cause the said residence, block or blocks or squares of ground to be vacated by the residents or inhabitants thereof for the purpose of disinfecting or fumigating the same, or if this is not deemed expedient or judicious by the health commissioner, he shall have the power and authority to close up the street or streets in front of and surrounding the said residence, block or blocks or squares of ground, and prohibit the residents and inhabitants of the said residence, block or blocks or squares of ground, from passing in or out, to or from, said premises, except under such rules and regulations as may be prescribed by the health commissioner and approved by the board of health, and to continue and remain so until the health commissioner or the board of health shall order the restriction removed. (M. C., sec. 810.)

Sec. 804. Notice of existence of contagious disease, to be given. — The keepers of all hotels and boarding houses, and the agents and owners of all tenement houses or private residences or dwelling houses, having any person or persons in their hotel, boarding houses, tenement houses or private residence or dwelling houses suffering from or afflicted with any malignant, infectious or contagious disease, after they

shall have become acquainted with the fact, or are apprised of the same, shall immediately notify the health commissioner at his office, in the city hall, stating the name of the person or persons so afflicted, their age and residence or location, and such other facts or information as they may be in possession of. Any such keeper, owner or clerk of any hotel or boarding house, or any such agent or owner of any tenement house, private residence or dwelling house, failing to notify the health commissioner of any person or persons being afflicted with any malignant, contagious or infectious disease, after having become aware, apprised or informed of the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof before either of the police justices of the City of St. Louis, shall be fined in a sum not less than twenty nor more than one hundred dollars, to be collected and paid as other fines for misdemeanors now provided for by law. (M. C., sec. 811.)

Sec. 805. Reports to public library. — It is hereby made the duty of the health commissioner, whenever any house is posted by the health department as having a contagious disease therein, immediately to notify the public library board thereof; and such report to the library board of the houses so posted shall be made daily by the health commissioner. (M. C., sec. 812.)

Sec. 806. Books, etc., of public library in house placarded. — Whenever any notice of contagious disease is posted upon any house by the health department, the agent of said department putting up said notice shall inquire at the time if the house contains any books, periodicals or pamphlets belonging to the public library, and shall thereupon demand and take immediate possession of said book, periodical or pamphlet, and remove the same to the office of the health department and the health commissioner shall immediately notify the public library, giving the number and name of the book, periodical or pamphlet, and the house where received; and the health commissioner shall immediately cause said books, periodicals or pamphlets to be disinfected and returned to the library. (M. C., sec. 813.)

Sec. 807. Penalty. — Any person in whose family there is a contagious disease who does not promptly report and surrender to the health commissioner any book, periodical or pamphlet belonging to the public library, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than five dollars nor more than twenty-five dollars. (M. C., sec. 814.)

Sec. 808. Duty of police department to give notice. — It shall be the duty of the police department to notify the health commissioner of the existence of any malignant, infectious or contagious disease, whenever or wherever they, in their judgment, consider or believe the same to exist, and also to assist the health commissioner or his officers or employes, whenever called upon to do so, while in the discharge of their duties, by virtue of the provisions of this article. (M. C., sec. 815.)

Sec. 809. Penalty for interfering with commissioner. — Any person or persons violating any of the provisions of this article, or interfering with or hindering or obstructing the health commissioner, or his officers or employes, in the exercise of their authority or duties as provided by this article, shall be deemed guilty of a misdemeanor, and upon

conviction thereof before either of the police justices of the city, shall be fined in a sum not less than twenty nor more than one hundred dollars, to be collected and paid as other fines for misdemeanors as now provided for by law. (M. C., sec. 816.)

Sec. 810. Consumption communicable disease—measures for prevention to be prepared and rules distributed.—Consumption, whether classified as “tuberculosis of the lungs,” “phthisis pulmonalis,” “tubercular phthisis,” “tubercular consumption,” “pulmonary consumption,” “tubercular broncho-pneumonia,” or however nominated, is hereby declared to be a communicable disease, and the health commissioner, with the approval of the board of health, shall prepare rules prescribing essential measures for preventing the spread of the disease and promoting its arrest or recovery. He shall cause a printed copy of such rules to be distributed in every case occurring within the limits of the City of St. Louis of whose existence he may have information. (Ord. 22024, sec. 1.)

Sec. 811. Attending physician to make examination of sputum—report to health commissioner.—It shall be the duty of each and every physician in the City of St. Louis, when called to attend any patient residing in the City of St. Louis who has symptoms of tuberculosis, to promptly make or cause to be made a microscopical examination of the sputum of such patient. If this examination or the clinical evidence demonstrate tuberculosis, the physician shall at once report the case to the health commissioner, giving name of patient, occupation, residence, place of employment, age, sex, nationality and social condition, and a record shall be kept of such reports, which shall be accessible only on order of the health commissioner. (*Ib.*, sec. 2.)

Sec. 812. Health commissioner to examine premises—take notes—distribute rules.—Whenever the health commissioner shall have information from the attending physician of the existence of any case of consumption in the city he shall cause the premises to be examined, and have notes taken of the sanitary condition of the same, the number of persons living in the house, and whether the patient occupies a room by himself or herself, or with others; and he is hereby directed to furnish in each case, directly or through the physician (when one is in charge), a copy of the rules in relation to the management of the sanitary features and surroundings of the case as herein provided for. (*Ib.* sec. 3.)

Sec. 813. Premises not to be placarded for consumption.—Houses in which there are cases of consumption shall not be placarded for that disease. (*Ib.* sec. 4.)

Sec. 814. Proceedings where no physician is in charge.—When a case of supposed consumption is reported to the health commissioner, and no physician is in charge, the health commissioner may appoint a city physician to examine and report the same. If the clinical evidence or a microscopical examination of the sputum of such patient demonstrate tuberculosis, the health commissioner shall furnish to the patient, or to the patient's nearest relative, friend or caretaker, a printed copy of directions as to the best means of preventing the spread of the disease and promoting recovery. He shall instruct the inspectors of the health department to report whether directions and instructions are obeyed. (*Ib.* sec. 5.)

Sec. 815. Examination of sputum under direction of commissioner.—The health commissioner shall have the power to cause a microscopical examination to be made of the sputa of persons having symptoms of tuberculosis, whenever it be requested by the attending physician or by the city physician detailed to examine the case, and he shall have the power to order said examination to be made by any competent person in the employ of the health department, and such person so employed shall promptly make the examination and a report thereof, free of charge. When such persons shall have completed this examination, the result shall be reported in duplicate, one copy to be forwarded to the physician upon whose application the examination was made and the other to the health commissioner. (*Ib.* sec. 6.)

Sec. 816. Disinfection of rooms of consumptives—nuisance when not disinfected.—Rooms that have been occupied by consumptive patients shall be thoroughly cleaned and disinfected as soon as the case has terminated, or been removed, permanently or temporarily. This may be done under the direction of the attending physician, but such disinfection and cleaning must be done in accordance with the rules of the health commissioner, and the physician must report to the health commissioner how and when this cleaning and disinfection were done. Upon application to the health commissioner, all apartments that have been recently occupied by cases of consumption will be disinfected free of charge. Premises not disinfected as provided by this section are hereby declared to be a nuisance and detrimental to the public health. (*Ib.* sec. 7.)

Sec. 817. Penalty for disobeying consumption ordinance—misdemeanor.—Any physician failing to comply with any of the provisions of the seven preceding sections or any person or persons resisting the enforcement of any of the provisions thereof shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than two hundred and fifty dollars, to be recovered for the use of the City of St. Louis before any court having competent jurisdiction. (*Ib.* sec. 8.)

ARTICLE XIX.

OF QUARANTINE.

Sec. 818. Health commissioner to prescribe regulations.—The health commissioner, by and with the approval of the board of health, is hereby authorized and empowered to establish and enforce special or general quarantine regulations within the limits of the city, whenever, in his judgment, the sanitary interests of the city demand the same. (M. C., sec. 817.)

Quarantine Regulations.—Charter XII., secs. 4 and 8; also Art. III., sec. 26, clause 6. The act of the legislature authorizing the City of St. Louis to make quarantine regulations is not a delegation of legislative power and such ordinances are not against the constitution of the state or of the United States. Particular quarantine regulations held valid in *Metcalf vs. St. Louis*, 11 Mo. 103. An ordinance of St. Louis prescribing that boats coming from below Memphis, having had on board at any time during the voyage more than a specified number of passengers, should remain in quarantine not less than forty-eight hours nor more than twenty days is not against the commerce clause of the U. S. Constitution; *St. Louis vs. McCoy*, 18 Mo. 238; *St. Louis vs. Boffinger*, 19 Mo. 1. The right to quarantine does not confer the power to seize and use for hospital purposes private property without compensation: *Barton vs. Odessa*, 109 Mo., App. 76, relying on *Dooley vs. Kansas City*, 82 Mo. 444.

Sec. 819. Application of regulations. — Quarantine regulations are hereby defined to apply as follows: First, to all passengers and their baggage; second, to passengers or baggage respectively; third, to freight of any one kind or character, or different varieties of freight differing in kind, character, substance or material; the extent of the inhibition or prohibition upon passengers or freight coming from any part of the United States into the city shall be determined by the health commissioner and approved by the board of health, and when so determined and approved it shall be made of record in the proceedings of the board. (M. C., sec. 818.)

Sec. 820. Epidemic—quarantine against section affected by. — Whenever the health commissioner shall be in possession of reliable and satisfactory information that any malignant, infectious or contagious disease is epidemic in any portion of the country with which the city has communication, he may establish and enforce quarantine regulations against such portion of the country, and he may determine and regulate to what extent, in what manner, and by whom any communication or business transactions may be had with such portion, either by the citizens of such portion of the country or of the city, and he shall establish such stringent and necessary rules and regulations as may be required to prevent the introduction or spread of such disease; and to that end he is hereby authorized to employ such persons as he may deem necessary; and, all the actions of the health commissioner under the provisions of this section must be approved by and recorded in the proceedings of the board of health, otherwise the health commissioner shall have no power to act in the premises. (M. C., sec. 819.)

Sec. 821. Notice to be given—failure to observe is misdemeanor—penalty. — Whenever the health commissioner shall declare that any malignant, infectious or contagious disease is prevalent in an epidemic form in any portion of the country, and the same is approved by the board of health, he shall immediately, or as soon thereafter as possible, notify in writing every express company, transfer company, teamster, steamboat company or water craft and railroad company doing business at the wharf, or in the city and engaged in the transportation of freight and passengers to or from the city to any portion of such country, through their representatives or principal officers or masters, owners, managers, conductors, teamsters or directors, that quarantine regulations have been established and will be rigidly enforced against such portion of the country, stating the method and condition by and upon which they may transmit or carry passengers or freight to or from the city, and also the kind or character of freight that is prohibited from entering the city, and all other regulations that may have been established by the health commissioner and approved by the board of health in relation to the subject-matter. Every officer, master, manager, owner, director, conductor or teamster of any express company, transfer company, team, steamboat company or other water craft and railroad company, after having received such notice, failing or refusing in whole or in part to comply with the restrictions and conditions of the quarantine regulations as established by the health commissioner and approved by the board of health, shall be deemed guilty of a misdemeanor, and upon conviction thereof before either of the police justices of the city, shall be fined in a sum not less than fifty nor more than five hundred dollars, to be collected and paid as other fines and penalties for misdemeanors, as now provided for by law. (M. C., sec. 820.)

Sec. 822. Epidemic—landing of freight or passengers from district affected by, without permit, forbidden—misdemeanor.—No steamboat or other water craft, or railroad train, consisting of locomotive and one car or more, coming from any portion of the country infected with any malignant, infectious or contagious disease in an epidemical form and bound for the city, shall land at the wharf or discharge its freight or passengers within the limits of the city, without first having obtained a permit to do so, from the health commissioner, or some other officer designated by him; and any captain, owner or master or conductor of any steamboat or other water craft or railroad train, landing at the wharf or discharging freight or passengers within the city, without first having obtained a permit as heretofore designated, shall be deemed guilty of a misdemeanor, and upon conviction thereof before either of the police justices of the city, shall be fined in a sum not less than fifty nor more than five hundred dollars, to be collected and paid as all other fines for misdemeanors as now provided for by law. (M. C., sec. 821.)

Sec. 823. Persons to be sent to quarantine.—All emigrants, passengers or other recently from shipboard or elsewhere, and all sick, diseased or unclean persons, with their baggage and stores, may, on their arrival in the city be sent to the quarantine station provided by the city for such purposes, whenever, in the opinion of the health commissioner, the same is deemed necessary by him and approved by the board of health. (M. C., sec. 822.)

Sec. 824. Promulgation of quarantine regulations.—Whenever an order of the health commissioner in relation to the quarantine regulations of the city is approved by the board of health, a copy of the same shall be made out and attested by the clerk and presiding officer thereof, and transmitted to the board of police commissioners, who shall enter the same of record upon the minutes of the board, and shall cause a copy of the same to be transmitted to the commanding officer of each police district and sub-district, and such commanding officer shall cause said order to be read at least twice to the officers and patrolmen of the force at each district, and the board of police commissioners are further directed to instruct the officers of the force to aid and assist the health commissioner, or any officer or employe designated by him in the enforcement of the quarantine regulations whenever requested to do so. (M. C., sec. 823.)

Sec. 825. Penalties.—Any person or persons failing or refusing to comply with the quarantine regulations of the city, as established by the health commissioner and approved by the board of health, or any person or persons resisting by force or otherwise, the enforcement of the quarantine regulations in the city, established and approved as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before either of the police justices of the city, shall be fined in a sum not less than ten nor more than five hundred dollars for each offense. (M. C., sec. 824.)

Sec. 826. Location of quarantine.—The grounds purchased by the City of St. Louis from Augustus Langkopt, by deed bearing date July seventh, eighteen hundred and fifty-four, are hereby established as a permanent quarantine station for the city, and there shall be established and maintained at said station a permanent hospital for the reception and accommodation of such persons, emigrants or others as may be placed therein by proper authority. (M. C., sec. 825.)

ARTICLE XX.

OF MORTUARY RECORDS.

Sec. 827. Physicians to make death certificates—duties of sexton, etc. — failure is misdemeanor—penalty. — Every physician who is legally authorized by the ordinances of the city to practice medicine in the city shall, when a patient dies under his or her care, make out certificates in duplicate in the form and in the manner as the health commissioner may prescribe, and on the blank form furnished by said health commissioner; which certificate shall state the name, age, sex, color, place of birth (when known), the exact locality and date of death together with the name of the disease or cause from which such person died; which certificates said physician shall cause to be deposited, without delay, in the office of the health commissioner. One of said certificates shall be registered and filed in the office of the health commissioner; the other, after being signed by the health commissioner or his clerk, shall be delivered to the undertaker of the funeral or to a member of the family of the deceased, said certificate to be delivered to the overseer or sexton or person in charge of the graveyard or cemetery in which the body is to be buried. It shall not be lawful for any overseer, sexton, or other person who may have charge or control of any graveyard or cemetery in the city, to receive said certificate or allow anybody to be buried in any graveyard or cemetery under their charge or control unless said certificate shall have been countersigned by the health commissioner or his clerk; and in no case shall anybody be received in any graveyard or cemetery in the city unless accompanied by a certificate countersigned by the health commissioner or his clerk. If any physician, undertaker, overseer or sexton of a graveyard, or other person, fail to make such report, or fail to comply with any or all of the provisions of this section, he, she, or they, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than five hundred dollars, to be recovered for the use of the city, as in other cases of misdemeanor, in any court having competent jurisdiction; and where any physician shall fail or refuse to make and deposit such certificate as provided in this section, the health commissioner shall cause inquiry to be made as to the cause of the person's death, and if he shall find that such person died from natural causes, he shall issue and sign certificates stating the facts, and on which certificate the body may be buried. (M. C., sec. 826.)

Christian Scientist is not a physician: *Kansas City vs. Baird*, 92 Mo. App. 204. See the charter provision on this subject, in Art XII., sec. 10 (the penalty is there fixed at five dollars); see also secs. 11 and 12 of same Art. of Charter. These charter provisions form the basis of this and the ordinance sections following hereinafter. There may be perhaps some question as to the authority of the city to increase the penalties fixed by the Charter.

Sec. 828. Death without medical attendance—when health commissioner to give certificate.—Whenever a permit for burial is applied for in a case of death without the attendance of a regular physician, or if it is impossible to obtain the physician's certificate, the health commissioner shall investigate the case so far as may be necessary, and when he has obtained satisfactory evidence in relation to the cause and circumstances of the death, he shall make out and sign the certificates and give the required permit; if not satisfied in relation to the cause and circumstances of the death, he shall report the case to the coroner of the city for his investigation; and upon such report by the health commissioner, it shall be the duty of the said coroner to investigate the case and make out and sign the certificate. (M. C., sec. 827.)

Sec. 829. Burials or removals prohibited without report of death.—No person shall bury or place in a tomb or remove from the city or otherwise dispose of the body of any human being who shall die in the city, or shall be brought to this city for burial, without first reporting the death to the health commissioner and obtaining a permit from him for the burial of the body of such person. (M. C., sec. 828.)

Sec. 830. Reports to be made by sextons, etc.—All overseers, sextons or other persons who may have control over public graveyards in the city shall make a weekly report to the health commissioner of all interments during the week in the graveyard whereof they are such overseer or sexton respectively. Said report shall specify the names and ages of the persons interred, sex, color and place of birth, and exact locality and date of death, and also the diseases of which said persons died, and the name and residence of the physician who signed the certificate. (M. C., sec. 829.)

See as to this section Charter Art. XII., sec. 11, which it tracks.

Sec. 831. Penalty for interment without certificate.—If any overseer, sexton or other person having control of a graveyard shall permit any person to be interred in said graveyard without a certificate stating the name, place and date of death, together with the disease of which said person died, signed by the health commissioner or his clerk, he shall forfeit and pay a sum not less than twenty-five nor more than five hundred dollars, to be recovered for the use of the city, as in other cases of misdemeanor before any court or officer having competent jurisdiction. (M. C., sec. 830.)

But see Charter Art. XII., sec. 12, which makes the penalty only a sum "not less than five nor more than twenty dollars."

Sec. 832. Penalty for failure to make weekly reports.—If any overseer, sexton or other person charged with the performance of such duty, fail or neglect to make to the health commissioner such report of weekly interments, he shall forfeit and pay not less than twenty-five nor more than five hundred dollars for every such failure, to be recovered in like manner as provided in the last preceding section. (M. C., sec. 831.)

Same as Charter Art. XII., sec. 13, except that the charter fixes the penalty at "not less than twenty dollars for every such failure."

Sec. 833. Reports to be delivered—when.—The sextons of the different cemeteries shall deliver to the health commissioner, at his office, their weekly reports, as provided for in section 830, at or before the hour of four o'clock in the afternoon of Saturday of each and every week; and any sexton failing or refusing so to do, shall forfeit and pay a fine of ten dollars for each such failure or refusal, to be recovered as provided in section 831. (M. C., sec. 832.)

Sec. 834. Blank books and records to be furnished.—The health commissioner shall furnish each overseer or sexton of any duly authorized and recognized graveyard with a blank book, with appropriate columns to enter the facts and records required by this article to be recorded; and such overseer or sexton shall enter in such books all the certificates received from any undertaker or physician; such books shall be and always remain the property of the city. (M. C., sec. 833.)

Sec. 835. Reports to include what.—It shall be the duty of overseers, sextons, or other persons who may have control over the public graveyards of the City of St. Louis, to include in their weekly reports to the health commissioner, as provided for in section eight hundred and thirty, the name and place of residence of each physician from whom has been received a certificate on which any person has been interred in the graveyards, under their charge, and the number of certificates given by each and every physician, and for whom given; and any overseer, sexton or other person having charge of a public graveyard, failing or refusing to comply with the provisions of this section, shall forfeit and pay a fine of ten dollars for every such failure, or refusal, to be recovered as provided for in section eight hundred and thirty-one. (M. C., sec. 834.)

Sec. 836. Blank certificates to be prepared.—The health commissioner shall cause to be printed a sufficient number of blank certificates, setting forth in suitable columns the facts required as prescribed in section eight hundred and twenty-seven, which certificates shall be kept in the office of the health commissioner, and shall be delivered to registered physicians in person only; and said physicians' names shall be inscribed on the back of each certificate so delivered, and it shall not be lawful for any physician to issue or use, or the health commissioner to receive, any other form of certificate for interment except such form as shall be prescribed and issued by the health commissioner. (M. C., sec. 835.)

Sec. 837. Removal of dead person—permit to be obtained.—When the removal of any dead person beyond the city limits is desired, a permit therefor shall first be obtained from the health commissioner, who shall issue said permit upon the certificate of the physician under whose care the person died. (M. C., sec. 836.)

Sec. 838. Certified copy of record to be furnished.—Whenever any person shall demand a certified copy of the record of the death or birth of any person as the same appears of record in the office of the health commissioner, the health commissioner shall furnish a certified copy of said record of death or birth, signed by either himself or his clerk, and stamped with the seal of his office and countersigned by the comptroller of the City of St. Louis, and for each certified copy of death or birth so issued he shall charge and collect the sum of one dollar, and all moneys thus collected shall be paid by him into the treasury of the City of St. Louis. (M. C., sec. 837.)

Sec. 839. Violations of article—penalty for.—Any person or persons violating the provisions of this article, for which no penalty has been provided shall, upon conviction, be fined not less than ten, nor more than five hundred dollars, to be recovered for the use of the City of St. Louis, before any court or officer having competent jurisdiction. (M. C., sec. 838.)

ARTICLE XXI.

OF REGULATIONS CONCERNING THE TRANSPORTATION AND DISINTERMENT OF DEAD BODIES.

Sec. 840. Certain dead bodies not to be brought to city.—It shall not be lawful for the officers or employes of any railroad, express or transportation company, or the master of any steamboat or

other vessel, or the driver of any wagon or vehicle to bring into the city the body of any person who shall have died from cerebro-spinal meningitis, diphtheria, scarlatina, typhus fever, smallpox, Asiatic cholera or yellow fever. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars for each offense. (M. C., sec. 839.)

Sec. 841. Certificate to accompany body.—Every dead body that is brought into the city must be accompanied by a physician's certificate of the cause of death. Any person or persons bringing any body into the city unaccompanied by a certificate showing the cause of death, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars. (M. C., sec. 840.)

Sec. 842. When permit forbidden.—No permits will be granted for the disinterment of bodies of persons who have died from cholera, yellow fever or smallpox. (M. C., sec. 841.)

Sec. 843. Disposition of disinterred bodies.—In all cases where bodies are disinterred there shall be on hand a new tight wooden box into which the coffin shall be immediately placed after it has been taken out of the ground. (M. C., sec. 842.)

Sec. 844. Opening graves and tombs—permit.—No person shall remove any dead body, or the remains of any such body, from any of the graves or tombs in this city, or shall disturb any dead body in any tomb or grave without a permit from the health commissioner. No grave or tomb shall be opened from the first day of April to the first day of October, except for the purpose of interring the dead, without the special permission of the health commissioner. (M. C., sec. 843.)

Sec. 845. Penalty.—Any person violating any of the provisions of this article, or failing to comply with any of the requirements prescribed, for which no special penalty is attached, shall be deemed guilty of a misdemeanor, and shall be fined not less than twenty nor more than five hundred dollars. (M. C., sec. 844.)

Sec. 846. Removal of dead person—permit to be obtained.—When the removal of any dead person beyond the city limits is desired, a permit therefor shall first be obtained from the health commissioner, who shall issue said permit upon the certificate of the physician under whose care the person died. (M. C., sec. 845.)

As to state laws on embalming and state board, see R. S., 1899, secs. 7370-7380.

ARTICLE XXII.

OF CEMETERIES.

Sec. 847. Authorized cemeteries.—The following named cemeteries are now established within the limits of the city, are hereby recognized and authorized as legal and proper places for the interment of persons who may die in the city, or who may be brought to the city for burial, namely: First, Bellefontaine cemetery; second, Bethlehem, or Bremen Saxon cemetery; third, Calvary cemetery; fourth, Evangelical, or Friedens cemetery;

fifth, Holy Trinity cemetery; sixth, New Saxon, or Gravois Saxon cemetery; seventh, New Pickers cemetery; eighth, Public cemetery, at City Poor House; ninth, Rock Springs cemetery; tenth, St. Marcus cemetery; eleventh, St. Mathew's cemetery; twelfth, St. Paul's Evangelical cemetery; thirteenth, SS. Peter and Paul's cemetery; fourteenth, Western Evangelical Lutheran, or Papin Saxon cemetery. (Ord. 21128, amend. M. C., sec. 846.)

As to when a cemetery may be considered as abandoned, and the right of the city to discontinue the same on that ground from further use, see *Campbell vs. Kansas City*, 102 Mo. 326. The Constitution exempts cemeteries from taxation: Const. Mo., Art. X., sec. 6, but exemption from taxation usually does not apply to special taxation: *Sheehan vs. Good Samaritan Hosp.*, 50 Mo. 155; *State ex rel vs. Linn Co.*, 44 Mo. 504. See also note to Charter, Art. VI., sec. 14, p. 398, referring to Laws 1907, page 86, making cemeteries subject to special taxation.

Sec. 848. Limits of cemeteries not to be extended.—None of the above named cemeteries, or any other that may be hereafter established by law, shall extend their limits unless permission to do so has been authorized by ordinance. (M. C., sec. 847.)

Sec. 849. Public or private burying grounds to be authorized.—From and after the passage of this article it shall not be lawful for any person or persons to lay out or establish a public or private burying ground within the limits of the city, unless the authority to do so shall have first been granted by ordinance. (M. C., sec. 848.)

Sec. 850. Burials allowed only on authorized ground.—It shall not be lawful for any person or persons to bury the body of any deceased person anywhere within the limits of the city, except in the cemeteries duly authorized and recognized as public burying grounds by section eight hundred and forty-seven, except by special permission granted by the health commissioner. Any person violating the provisions of this section shall upon conviction, be fined not less than two hundred and fifty dollars, nor more than five hundred dollars, to be recovered for the use of the city, as in other cases of misdemeanor, before any court or officer having competent jurisdiction. (M. C., sec. 849.)

Sec. 851. Penalty for burying in unauthorized cemetery. Any owner or owners, or his or their agents, or any tenant or any other person who shall bury or permit to be buried the body of any deceased person on any lot of ground within the limits of the city, except the same be authorized as a cemetery, except by special permission of the health commissioner, shall upon conviction be fined not less than two hundred and fifty nor more than five hundred dollars, to be recovered for the use of the city as in other cases of misdemeanor, before any court or officer having competent jurisdiction, and such person shall be subject to a like fine for each and every day the body of any deceased person shall remain interred in said lot. (M. C., sec. 850.)

Sec. 852. Disinterment to take place when.—If the body of any deceased person or persons be found buried on any lot of ground in the city, the owner or agent of which cannot be found, it shall be lawful, and it is hereby made the duty of the health commissioner to cause said body or bodies to be disinterred and buried in the public burying ground; provided, however, the provisions of this section shall have no application to the remains of deceased persons which have been interred prior to the passage of this article. (M. C., sec. 851.)

Sec. 853. **Cemeteries to be in charge of sexton.**—Every cemetery shall be in charge of a sexton or overseer, and the name of such sexton or overseer shall be certified to and recorded in the office of health commissioner, by the person or persons owning or controlling such cemetery. (M. C., sec. 852.)

Sec. 854. **Bodies to be buried — how deep.**—No body of any deceased person shall be buried in any cemetery within the limits of the city at a less depth than six feet below the surface of the ground, provided, that the provisions of this section shall not be applied to cases where burial vaults or tombs have been or may be erected for the reception of deceased persons. (M. C., sec. 853.)

Sec. 855. **Removing bodies outside city limits — punishment.**—Every person who shall convey, or remove, or assist in conveying or removing the body of any deceased person (whether such person shall have died in the city, or shall have been brought to the city after death), outside of the limits of the city, without first having obtained from the office of the health commissioner permission so to do, shall upon conviction, be fined not less than two hundred and fifty nor more than five hundred dollars, to be recovered for the use of the city, as in other cases of misdemeanor, before any court or officer having competent jurisdiction; provided, that the provisions of this section shall have no application where bodies in course of transportation pass through St. Louis on their way from one point to another. (M. C., sec. 854.)

Sec. 856. **Penalty for injuring cemeteries, etc.**—Every person who shall wilfully destroy, disfigure or injure any wall, fence, ledge, monument, tombstone, tree or shrubbery around or within any cemetery, graveyard or burial ground, (or shall use such a cemetery, graveyard or burial ground for any other purpose than a burying ground), shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five nor more than five hundred dollars, to be recovered for the use of the city before any court or officer having competent jurisdiction. (M. C., sec. 855.)

Sec. 857. **Burials—permit for not to be issued when.**—The health commissioner shall not issue a permit to bury the body of a person that died elsewhere, and has been brought within the city limits, except upon the certificate of a physician given at the place of death, and if no such certificate accompany the body, it shall be the duty of the coroner of the city to pass on the case and make out and furnish the necessary certificates. (M. C., sec. 856.)

Sec. 858. **Burial certificates to accompany bodies.**—It shall not be lawful for any person to carry the body of any deceased person to any of the cemeteries or burying grounds within the limits of the city, or for any sexton or other person in charge of said cemetery or burying ground to receive the body of any deceased person, unless accompanied by a burial certificate, properly signed and certified to by the health commissioner or his clerk. (M. C., sec. 857.)

Sec. 859. **Penalty in cases not provided for.**—Every person who shall violate any of the provisions of this article for which no penalty has been provided shall upon conviction be fined not less than ten nor more than five hundred dollars, to be recovered for the use of the city, before any court or officer having competent jurisdiction. (M. C., sec. 858.)

Sec. 860. **Article—how construed.**—Nothing in this article shall be so construed, or understood as altering any of the provisions of this chapter. (M. C., sec. 859.)

Sec. 861. **Interment—when ordered to be made.**—Whenever the interment of the body of any deceased person in the limits of the city has in the opinion of the health commissioner been unnecessarily delayed, or where for sanitary reasons the interment of the body as aforesaid should take place forthwith, or where in the opinion of the said health commissioner such delay may be injurious to the public health, or endanger the lives of the citizens of this city, it shall be his duty to issue an order directing that said body shall be interred forthwith. Said order shall be directed to the relatives, friends, person or persons having in charge the body of such deceased person. If the relatives, friends, person or persons as aforesaid, fail or refuse to obey said order, then and in that case the health commissioner shall have the power to remove such body, and it shall be his duty to cause the body to be immediately interred in the public cemetery. (M. C., sec. 860.)

Sec. 862. **Penalty for violating preceding section.**—Any person or persons failing or refusing to obey the order of the health commissioner in such cases, or interfering with or resisting any of his officers or employes while engaged in the discharge of his orders shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined in a sum not less than twenty-five nor more than five hundred dollars, to be recovered for the use of the city before any court or officer having competent jurisdiction. (M. C., sec. 861.)

Sec. 863. **Delayed interment—duties of police.**—It is hereby made the duty of the police department of the city, whenever they become apprised or have information that the interment of the body of any deceased person has been delayed beyond a reasonable length of time to notify the health commissioner of such fact, and it shall also be the duty of the police to aid and assist him or any of his officers and employes, while engaged in the discharge of their duty as prescribed in section eight hundred and sixty-one. It shall also be the duty of the police to arrest and prosecute any person or persons who shall bury, or cause to be buried, the body of any deceased person in any place in the city not a burying ground, as prescribed in section 847, unless a permit so to do shall have been issued and signed by the health commissioner. (M. C., sec. 862.)

ARTICLE XXIII.

OF CREMATORIES.*

*Ordinance No. 13985, approved April 7, 1887, authorized the Missouri Crematory Association to erect, maintain and operate a building for the purpose of cremating dead human bodies and repealed ordinance No. 13574.

Sec. 864. **Crematories established by ordinance only.**—It shall be unlawful for any person or persons, firms or corporations to erect or maintain any building in the City of St. Louis for the purpose of cremating or destroying by fire any human body, unless permission so to do has been first obtained from the municipal assembly, by proper ordinance, nor shall any existing house, shed or structure be used, altered, changed, removed or repaired so as to establish, conduct or carry on a crematory

without similar authority. Any person or persons, firms or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars for such offense, and every day on which a violation of the provisions of this section exists, as to any premises, shall constitute a separate and distinct offense. (M. C., sec. 863.)

Sec. 865. Cremation—regulations of.—Whenever the friends or relatives of any person who shall have died in this city shall desire to have the body of such person cremated by any association duly organized by law for the purpose of cremating dead human bodies, they shall first file in the office of the health commissioner certificates made out in duplicate and signed by the physician who attended the person in his or her last illness, and in case there has been no attending physician, such certificate must be signed by the coroner of the city. Said certificate shall state the name, age, sex, color, place of birth (when known), the exact locality and date of death, together with the name of the disease or cause of death from which such person died. Accompanying said certificate shall be a request in writing, signed by the friends or relatives, stating that they desire to have the body of the person named in the certificate cremated. When such certificate and request have been properly signed and delivered to the health commissioner, he shall issue a permit setting forth the facts and giving permission for the cremation of such body. (M. C., sec. 864.)

Sec. 866. Body brought to city for cremation—certificate required.—Whenever any body of any person who shall have died elsewhere, shall be brought into this city for the purpose of being cremated, the parties shall file with the health commissioner the certificate of the legally constituted authorities, authorized to issue such permit, of the place from whence the body has come, stating the cause or disease of which the person has died, and that the body is being taken to the city for the purpose of cremation. (M. C., sec. 865.)

Sec. 867. Body not to be received at crematory without permit.—No person in charge of or having charge of any crematory, shall receive at said crematory, or allow to be cremated at said crematory, the body of any person unless accompanied by a permit signed in writing by the health commissioner or his deputy, and certified to by the clerk of the board of health and commissioner, giving permission to cremate such body, which permit shall set forth the name, age, color, sex and the number of the death certificate, relating to such person on file in his office. Any person in charge of or having control of any crematory, who shall receive or cremate any body, without the permission herewith described shall be deemed guilty of misdemeanor, and upon conviction thereof shall be fined not less than five hundred dollars. (M. C., sec. 866.)

Sec. 868. Health commissioner—powers of.—The health commissioner shall have the power to delay the issue of a permit for thirty-six hours, or he may refuse to grant any permit for the cremation of any body, if he is not perfectly satisfied that such body should be cremated, and in all such cases of refusal he shall refer the matter to the board of health for its action, and he shall be governed by such action as said board shall recommend on the premises. The health commissioner shall also have the right in all cases, if he so desires to consult the coroner of the city, before granting the permission to have any body cremated. (M. C., sec. 867.)

ARTICLE XXIV.

OF BRINGING INSANE PERSONS AND PAUPERS INTO CITY.

Sec. 869. **Penalty for bringing paupers and insane to city.**—The president, directors, or owners of any railroad, and the conductor in charge of any railroad car, or train or railroad cars, or the master or person in charge of any steamboat or other vessel, or the owner or driver of any wagon or vehicle, who shall bring into the city a person or persons who are insane or paupers, who are likely to become a charge to the city, shall be deemed guilty of a misdemeanor and on conviction thereof, be fined not less than twenty-five nor more than three hundred dollars for each offense, in addition to which penalty the person so offending shall be required to enter into bonds before the police justice of not less than five hundred dollars nor more than one thousand dollars, to defray the expenses of the insane or paupers thus brought, so long as they remain in the city. (M. C., sec. 868.)

Disposition of non-resident insane: see R. C., sec. 762. See as to exclusion of insane non-residents from insane asylum R. C., sec. 753; and as to non-resident paupers from poorhouse, R. C., sec. 773.

Sec. 870. **Duties of marshal and police.**—It shall be the duty of the marshal or policemen, whenever complaint is made before the police justice of a violation of any of the provisions of this article, to arrest the offender forthwith and bring such offender without delay before the police justice for trial. (M. C., sec. 869.)

Sec. 871. **Duties of police commissioners.**—It shall be the duty of the board of police commissioners to instruct the police to report to the chief of police any violation of this article. (M. C., sec. 870.)

ARTICLE XXV.

OF SALARIES OF OFFICERS AND EMPLOYES.

Sec. 872. **Salaries.**—The several officers and employes of the health department, hereinafter named, shall receive the following amounts as compensation per month for their services, to-wit: Chief engineers, seventy-five dollars; assistant engineers, fifty dollars; firemen, thirty-five dollars; carpenters, forty-five dollars; whiteners and plasterers, forty-five dollars; chief cooks, sixty dollars; assistant cooks, thirty dollars; chief clerks in poor house, city hospital, female hospital and insane asylum, sixty dollars; storekeepers, thirty-five dollars; outside night watchmen, forty dollars; steward city hospital, sixty dollars; matron poor house, forty dollars; chief laundresses, thirty dollars; assistant laundresses, twenty dollars; male nurses (day), thirty dollars; male nurses (night), thirty-five dollars; female nurses (day), twenty-five dollars; female nurses (night), thirty dollars; assistant female nurses, twenty dollars; supervisors, male insane departments, thirty-five dollars; supervisors, female insane departments, thirty dollars; head attendants, one in each hall, male insane, thirty dollars; head attendants, one in each hall, female insane, twenty-eight dollars; attendants, male insane, twenty-eight dollars; attendants, female insane, twenty-five dollars; night watchmen, male insane, thirty-five dollars; night watchmen, female insane, thirty dollars; assistant physicians at insane asylum and poor house, fifty dollars; druggist at city hospital, seventy-five dollars; druggists at other institutions, fifty dollars; head baker, poor house, fifty-five dollars; assistant bakers, poor house, forty-

five dollars; head dairyman, poor house, fifty dollars; first-class male help, thirty-five dollars; second-class male help, thirty dollars; third-class male help, twenty-five dollars; fourth-class male help, twenty dollars; first-class female help, twenty dollars; second-class female help, fifteen dollars; third-class female help, ten dollars; seamstresses, twenty-five dollars; messenger boys, ten dollars; steward smallpox hospital, who shall also perform the duties of clerk, one hundred dollars; nurses, smallpox hospital, forty dollars; chief physician at city dispensary, one hundred fifty dollars; seven assistant physicians at city dispensary, one hundred dollars; ambulance drivers, sixty dollars; sanitary officers, seventy-five dollars; inspectors, sixty dollars; assistant clerk and bookkeeper in health commissioner's office, one hundred dollars; chief sanitary clerk, one hundred dollars; physicians at smallpox hospital, one hundred dollars; one assistant physician at city hospital, fifty dollars; two assistant physicians at city hospital, twenty-five dollars; two senior assistant physicians at female hospital, fifty dollars; one chief vaccine physician, one hundred dollars; vaccine physicians, seventy-five dollars; mortuary record clerk, one hundred dollars; fumigators of buildings where there have been contagious diseases, seventy-five dollars; female attendant at dispensary who shall act as janitress, thirty-five dollars; messenger in health office, twenty-five dollars. (Ord. 22139, amend. M. C., sec. 871 and ord. 20073.)

As to salaries of superintendent of training school nurses see R. C., sec. 715; salary of superintendent of city hospital, insane asylum, female hospital and quarantine, see secs. 719 and 725; of first assistants at city hospital, see sec. 721; other assistants to the superintendents at hospital and insane asylum, see sec. 728; of assistant superintendent at insane asylum, sec. 732; of assistant superintendent at female hospital, sec. 741; supervisor of nurses and matron at female hospital, see sec. 746; of superintendent of poor house, sec. 781.

Sec. 813. Board and washing—to whom allowed.—All the officers and employes mentioned, whose services are required at the city hospital, female hospital, insane asylum, poor house and smallpox hospital shall receive in addition to the salaries mentioned in this article board and washing at the institution at which they are employed, but none of the officers or employes of the health commissioner, sanitary office or city dispensary shall receive board or washing at any of the city institutions. (M. C., sec. 872.)

Sec. 874. Temporary employment of mechanics.—Whenever at the city hospital, female hospital, insane asylum, poor house and smallpox hospital, the buildings and machinery are in need of any slight repairs, the health commissioner may temporarily employ such mechanics as may be necessary; but no alterations or changes shall be made in the construction of any of the buildings, unless approved by the commissioner of public buildings. The wages paid to the mechanics thus temporarily employed, shall not be more than is usually paid to that class of workmen. (M. C., sec. 873.)

Sec. 875. Temporary salaries—when provided.—Whenever it shall become necessary to establish quarantine or to establish temporary hospitals or dispensaries, or to employ watercraft in the removal of sick, or to place medical inspectors on any railroads or any of the police districts of the city, the pay of all such persons employed in such hospitals, dispensaries, or otherwise or any person not provided for in this article, shall be fixed by the health commissioner, by and with the approval of the board of health; provided, however, that such salaries shall be in force temporarily and until the municipal assembly shall fix them otherwise. (M. C., sec. 874.)

CHAPTER 12.

OF HIGHWAYS.*

- ART. I. Of street openings.
 II. Of construction and repairs and preventing obstructions.
 III. Of sprinkling.
 IV. Of numbering of houses.
 V. Of stationary awnings.
 VI. Of electric wires, tubes and cables.
 VII. Of supervisor of city lighting and regulations pertaining to electrical apparatus.
 VIII. Of city lighting and municipal lighting plants.
 IX. Of telegraph and telephone poles.
 X. Of garbage disposal.
 XI. Of offenses connected with highways.
 XII. Of city forester.

ARTICLE I.

OF STREET OPENINGS.**

Sec. 876. **Article not retroactive as to special benefits.**—The repeal of sections eight hundred and seventy-five, eight hundred seventy-six, eight hundred seventy-seven, eight hundred seventy-eight and eight hundred and seventy-nine, of the Municipal Code of St. Louis and the substitution of the following five sections of this article therefor, shall not affect special benefits made and confirmed by the circuit court before said five sections go into effect. (Ord. 21810, sec. 1.)

Ord. 21810, approved March 8, 1905, became effective ten days thereafter. These sections were probably repealed in consequence of the ruling in *Eyssell vs. St. Louis*, 168 Mo. 607, which, however, was overruled in *St. Louis vs. Brinckwirth*, decided May 29, 1907 (not at this writing reported). In connection with the following sections should be read the Charter provisions Art. VI., secs. 1 *et seq.*, and the notes appended thereto.

Sec. 877. **When streets to be established, altered, widened, etc., or sewer route fixed, plat furnished city counselor, etc.**—Whenever the Municipal Assembly shall provide by ordinance for establishing, opening, widening or altering any boulevard, street, avenue, alley, wharf, market place or public square, or route for a sewer or water pipe, or for changing an existing street into a boulevard, or to condemn private property for other or different public uses than those already specified in this section, and it is necessary to take private property for the same, the street commissioner shall furnish the city counselor with all necessary plats showing the property affected by the proposed improvement, and the metes and bounds and the names of the owners thereof. (*Ib.*, sec. 1 in lieu of M. C., sec. 875.)

Sec. 878. **Duties of commissioners in street and sewer condemnation proceedings—notice of district affected—notice of hearing—hearing—exceptions.**—It shall be the duty of the commissioners appointed by the circuit court in any condemnation pro-

*See Charter Art. VI. Of street commissioner, see R. C., Chap 24, Art. III., sec. 1945 *et seq.*

**Charter Art. VI., sections 1 to 12, street openings and condemnation proceedings, and see annotations to Charter to corresponding sections.

ceeding under the charter of the City of St. Louis to ascertain, establish and define the district of property benefited by the proposed improvement. Before the commissioners shall assess damages and benefits, the city counselor shall give five days' notice in the papers doing the city printing of the establishment of said district and the boundaries thereof, and of the time and place when and where the commissioners shall proceed to assess said damages and benefits, and inviting all persons interested to be present; and at said hearing all persons owning or interested in the property in said district shall have the right to be heard, and may except to the report of the commissioners before the circuit court when it is filed. (*Ib.*, in lieu of M. C., sec. 876.)

See *St. Louis vs. Ranken*, 96 Mo. 497, 505-506; *Michael vs. St. Louis*, 112 Mo. 610; *St. Louis vs. Brinckwirth* (Sup. Ct., May 29, 1907, not at this writing reported); *Marshall, J., in Eyssell vs. St. Louis*, 168 Mo. loc. cit. 616 (overruled in the last named case but not on this point), as to sufficiency of notice to one benefited by the street opening.

See in general Charter Art. VI., sec. 1 *et seq.* and the authorities cited in notes thereto.

Sec. 879. Duties of comptroller—vouchers—receipts—payment of judgment.—After final action is taken by said circuit court on the report of the commissioners in any condemnation proceedings under the Charter of the City of St. Louis, and a certified copy of said report with such final action thereon has been duly received and recorded by the comptroller in his office and the assembly has made an appropriation for the payment, out of the city treasury, of the damages so ascertained by said court, it shall be the duty of the comptroller to make out vouchers for said damages in accordance with the final action of said court, and deliver the same to the auditor. The comptroller shall also issue to applicants wishing to pay any such judgment a statement showing the amount due, and the treasurer upon receipt of payment of any such judgment, shall execute quadruplicate receipts issued by the comptroller, one to the party paying, one to the auditor, one to the comptroller and one to the city counselor, and such payments shall be credited to the fund appropriated by ordinance for said condemnation proceeding. (*Ib.*, compare M. C., sec. 877.)

The section is not the same as it was in the Mun. Code; see as to the same as it then stood: *Brinckwirth vs. St. Louis* (Sup. Ct., May 29, 1907, not yet at this writing reported).

Sec. 880. Payment of benefits—when interest begins to accrue—amount of interest—execution—bid at execution sale to protect city.—The benefits against property as adjudged by the final action of said circuit court in such condemnation proceeding shall be paid into the city treasury; such benefits, if paid within sixty days after the ordinance appropriating the money to pay the damages assessed by said final action shall take effect may be paid without interest, but if not paid within sixty days, interest at the rate of six per cent per annum from the taking effect of such ordinance shall be added to the amount of such judgment. If the benefits assessed are not paid or satisfied as provided by Charter or ordinance, they shall be collected by either execution or suit upon such final judgment confirming the same. At all execution sales for the enforcement of payment of such judgments the city counselor is authorized, on behalf and in the name of the City of St. Louis, to protect the city's interests by bidding for the property to be sold in an amount equal to the judgment, interest, costs and expenses. (*Ib.*)

It was held in *Eyssell vs. St. Louis*, 168 Mo. 607, that the condemnation proceedings operated as a final judgment for benefits which could be thereafter collected without the necessity of a special tax bill, on execution; this case is overruled after full discussion in *Brinckwirth vs. St. Louis* (decided May 29, 1907,

but not at this writing reported), and it is now held that no recovery can be had except by suit on the special tax bill; the condemnation judgment is not broad enough to include recovery by execution thereon for the benefits found.

Sec. 881. Satisfaction of judgment against property affected—when no appropriation.—Upon delivery of any receipt above described to the city counselor, duly executed by the treasurer, the city counselor shall acknowledge satisfaction of such judgment in so far as the same affects the property against which such judgment for benefiting so assessed has been paid as evidenced by such receipt.

When in any case the Municipal Assembly fails to appropriate the money necessary for the payment of damages assessed for the condemnation of private property for public use within the time limited by the Charter, the city counselor shall release or acknowledge satisfaction of the judgment or judgments assessing benefits for such improvement. (*Ib.*)

Sec. 882. Compensation of commissioners.—In all proceedings to establish, open, widen, or alter any street, avenue, alley, wharf, market place, or public square, or route for a sewer or water pipe, the commissioners appointed by the circuit court shall be entitled to have and receive from the city treasury for their services as such, the sum of three dollars each, for each day's services in the case. (M. C., sec. 880.)

The Charter now fixes the commissioners' compensation at three dollars a day (Art. VI., sec. 8), but before the amendment, when the provision was that there should be a "reasonable compensation," this ordinance fixing the rate at three dollars, was held void: *Green vs. St. Louis*, 106 Mo. 454.

Sec. 883. Clerical work to be done by whom.—The clerical work of said commissioners, including writing the report, shall be done and performed by the force employed in the city counselor's office, and no compensation shall be allowed or paid to any commissioner for such work, or to any person, whomsoever. (M. C., sec. 881.)

See annotations to the Charter provisions Art. VI.

ARTICLE II.

OF CONSTRUCTION AND REPAIRS AND PREVENTING OBSTRUCTIONS.*

Sec. 884. Construction or reconstruction and maintenance may be let in one contract.—Whenever a street is to be improved the board of public improvements may submit to the municipal assembly a bill for letting in one contract the work of constructing or reconstructing such street and of maintaining it in good condition for a term of years. (M. C., sec. 882.)

See annotations Charter Art. VI., secs. 14 *et seq.*; also sec. 27 and 28. Time within which work must be completed: See note to Charter Art. VI., sec. 28.

Sec. 885. Same—advertising necessary.—When such bill shall have become a law the board of public improvements shall advertise for proposals including the construction or reconstruction and maintenance under the same regulations as are provided for the improvement of streets. (M. C., sec. 883.)

*For Charter provisions see Chart. Art. VI., secs. 14-18. The notes appended to these sections, giving the judicial interpretations thereof in connection with the following ordinances, should be consulted herewith.

Sec. 886. Advertisements to contain what.—Such advertisement shall, in addition to what is prescribed for other street improvements, state the term during which the street is to be maintained in good condition, and the amount of bond which the contractor will be required to furnish to secure the execution of the contract for maintenance, in addition to the bond which, under existing regulations, has to be furnished for all contracts for street improvements. (M. C., sec. 884.)

For provisions relating to advertising and letting, see notes to Charter VI., sec. 27 and 15; also Rev. Code Chap. 24, Art. 8, secs. 1976 *et seq.*

Sec. 887. Letting contract—usual terms apply.—The letting of the work, the awarding of the contract and the approval of the contract and of the bonds shall be carried out, as now provided for other street improvements. (M. C., sec. 885.)

Sec. 888. Ascertaining lowest bid.—In canvassing the proposals, the lowest bid shall be ascertained by taking the aggregate amount of the cost of construction or reconstruction, as the case may be, and the total cost of maintenance, for the term of years designated by the ordinance. (M. C., sec. 886.)

Sec. 889. When maintenance to begin—payment of cost of.—The obligation of the contractor to maintain the streets in good condition shall commence one year after the completion and acceptance of the work of construction or reconstruction, and the contract price shall be paid semi-annually out of the city treasury, on the certificate of the street commissioner that the work has been performed in accordance with the contract and specifications. (M. C., sec. 887.)

Sec. 890. Repairs—how made and paid for.—The contractor shall, whenever notified by the street commissioner that any repairs are required, at once make such repairs at his own expense, and if they are not made within proper time the street commissioner shall have power to cause such repairs to be made, and the cost thereof shall be paid out of the fund provided for the payment of contracts for street maintenance, and the amount shall be deducted from any money then due under the contract, or which may thereafter become due. (M. C., sec. 888.)

Under the new charter repairs of streets, etc., are paid for by the city, but construction and reconstruction thereof, and repairs also of boulevards, allées and sidewalks, are to be paid for by special taxation; see note to Charter Art. VI., sec. 18.

Sec. 891. Reconstruction—when ordered and made.—If at any time during the term for which the contract for the maintenance of the streets is in force the pavement of such street or any part thereof should deteriorate to such an extent as to require, in the opinion of the board of public improvements, reconstruction, the street commissioner may, with the approval of the board of public improvements and of the mayor, notify the contractor that reconstruction is necessary, and the contractor shall, within three months after receiving such notice, reconstruct the whole or such part of the pavement with the same kind of material as heretofore applied or with some other material approved by the board of public improvements. (M. C., sec. 889.)

Maintenance provision: Chart. VI., secs. 14 and 15. The contract provision "to maintain the street in repair for five years" means that the contractor's work is such that it will last five years under the ordinary wear and tear incidental to the use of the street as a street. It applies only to the original quality of the work and amounts to a guarantee thereof for the use intended. Such

a guarantee is nothing more than a stipulation for a sound pavement at the outset: *Asphalt Co. vs. St. Louis*, 188 Mo. 576, 579; *Barber Asphalt Pav. Co. vs. Ullman*, 137 Mo. 543, 566; *Bank vs. Woesten*, 147 Mo. 467, 479; *Barber Asp. Co. vs. Hezel*, 155 Mo. 391; *St. L. Quarry Co. vs. Frost*, 90 Mo. App. 687; *Verdin vs. St. Louis*, 131 Mo. 26.

And where the contract is between the contractor and abutting owners, the former cannot recover against the city for injuries to the pavement: *Asphalt Co. vs. St. Louis*, 188 Mo. 576.

Sec. 892. Failure to reconstruct—proceedings.—If the contractor should fail to reconstruct the street within three months after having been notified, the board of public improvements may, with the approval of the mayor, cancel the contract and relet the work of reconstructing the pavement, and the cost of such reconstruction shall be paid by the city and the amount collected by suit from the contractor or his sureties, not to exceed twelve dollars per square of pavement, included in the contract. (M. C., sec. 890.)

Sec. 893. Repairs resulting from disturbance of pavement.—Whenever any repairs of the street are made necessary from the construction of sewers, the laying of pipes or telegraph wires, or from any other disturbance of the pavement by parties acting under permits issued by the city, the contractor shall, on notification from the street commissioner, immediately make all necessary repairs in conformity with the specifications for this class of work. (M. C., sec. 891.)

Sec. 894. Same—how cost of ascertained.—The cost of all such repairs, exclusive of trenching and back-filling, which shall be done by the parties who hold the permits and in the manner as now required by existing ordinances, shall be paid for at the full contract price for a superficial square of new pavement out of the fund set apart for the payment of contracts for the maintenance of streets, and the amount shall be certified by the street commissioner to the auditor, who shall reimburse by transfer, the aforesaid fund from the funds of the proper department if the repairs were made necessary by the construction of any public improvement; and out of the funds to be deposited by persons obtaining permits for opening streets before such permits are granted if the repairs are made necessary by work done under such permits. (M. C., sec. 892.)

Sec. 895. Contractor has right to make repairs.—The contractor shall have the right to make all repairs which become necessary by the construction of any public improvement or by the work done by private parties under permits given by the city. (M. C., sec. 893.)

But the contractor cannot sue the city for its negligent injury to the pavement: *Asphalt Co. vs. St. Louis*, 188 Mo. 576.

Sec. 896. Contract to contain above provisions.—In addition to what is prescribed for other street improvements, the contract shall embody all of the provisions of the last seven preceding sections. (M. C., sec. 894.)

Sec. 897. Maintenance bond required.—In addition to the bond now required for street improvements, the contractor shall give a maintenance bond, conditioned that the principal therein shall maintain the street during the term and in strict accordance with the provisions of his contract. The amount of such bond shall not exceed twelve dollars for every square of one hundred superficial feet of the street embraced in the contract. (M. C., sec. 895.)

Sec. 898. Gas, sewer and water connections to be made in advance—permit—violation misdemeanor.—In all the streets of the City of St. Louis, which it is now proposed to reconstruct or which shall, hereafter, be reconstructed, all gas, sewer or water connections with property bordering on said streets shall be made in advance of the reconstruction of the streets, and thereafter no one shall be permitted to remove or disturb the pavement for the purpose of making such connections, unless permission be obtained from the board of public improvements. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars. (M. C., sec. 896.)

Sec. 899. Sidewalks—width of.—In all streets of thirty and under thirty-eight and a half feet in width the sidewalks shall be five and a half feet wide; those of thirty-eight and a half feet and under forty feet in width shall have sidewalks six and a half feet wide; those of forty and under fifty feet in width shall have sidewalks eight feet wide; those of fifty and under sixty feet in width shall have sidewalks ten feet wide; those of sixty and under seventy-five feet in width shall have sidewalks twelve feet wide; those of seventy-five and under eighty feet in width shall have sidewalks fourteen feet wide; those of eighty and under one hundred feet in width shall have sidewalks fifteen feet wide; those of one hundred feet and upwards shall have sidewalks twenty feet wide. (M. C., sec. 897.)

See *Hill-O'Meara vs. Hutchinson*, 100 Mo. 294, 299-300; also *Heman vs. Loevy*, 179 Mo. 1. c. 464.

Sec. 900. Sidewalks—cross-grade of—violation misdemeanor.—Hereafter no sidewalk shall be constructed the cross-grade of which, or rise from the curbstone or building line, shall be greater than one-half inch vertical rise to one foot horizontal distance; and in each instance the curb line shall be maintained at its correct elevation above the city directrix which shall be determined from the construction of the particular street in question. Any person who shall himself violate, or by another cause to be violated, this section of this article, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars, nor more than five hundred dollars. (M. C., sec. 898.)

Literal compliance with this ordinance is not always required; a special tax bill is not rendered invalid by a failure to observe its requirements which is due to difference in grade of the streets and when the walk as constructed is not less valuable to the abutting property nor less safe or convenient for public use; *Steffen vs. Fox*, 124 Mo. 630, s. c. 56 Mo. App. 9.

Sec. 901. Permission to construct sidewalk.—Whenever the municipal assembly shall direct, by ordinance, the improvement of a public street or avenue, the board of public improvements shall, upon the application of the owner of any property fronting or bordering such improvement, grant permission to such owner to construct the sidewalk, in front of said property; provided, that if the permit is for the construction of a sidewalk in front of a corner lot, the permit will be given on condition that the sidewalk be laid to the curb lines of the intersecting streets; but without such permission no sidewalk shall be constructed. (M. C., sec. 899.)

A former ordinance provided that the B. P. I. "may" grant permission, etc. This was held to confer a discretion, hence mandamus to compel the same would not lie: *State ex rel. vs. St. Louis* 158 Mo. 505.

The ordinance and permit thereunder to the owner to construct the sidewalk "in front of his property" being silent as to intersections at the corners, the owner is required to pay his pro rata to the contractor reconstructing the sidewalks at the intersections, even if he, the owner, had had the work done: *Heman vs. McManus*, 102 Mo. App. 649.

Sec. 902. Permission to construct cross walks.—The board of public improvements shall grant any person permission to construct a cross-walk at his own expense at any point upon any street, avenue or highway, when such cross-walk will not obstruct the public carriageway or inconvenience the public; provided, that the cross-walk shall be constructed of the kind of material and in the manner directed by the board of public improvements. (M. C., sec. 900.)

Sec. 903. Granitoid sidewalks to be constructed within certain limits.—All sidewalks hereafter constructed, laid, rebuilt or repaired in that portion of the city, within the district bounded as follows, to-wit: East by the east line of Third street, north by the north line of Franklin avenue, from Third street to Leffingwell avenue, and by the north line of Easton avenue from Leffingwell avenue to the western city limits, west by the western city limits, and south by the south line of Clark avenue, from Third street to the west line of Twelfth street, by the south line of Market street from the west line of Twelfth street to the west line of Jefferson avenue, by the south line of Laclede avenue, from the west line of Jefferson avenue to the west line of King's Highway boulevard and by the north line of Forest Park from the west line of King's Highway boulevard to the western city limits, shall be constructed of artificial stone flagging or such other stone as may be approved by the board of public improvements. (M. C., sec. 901.)

Section (prior to amendment) upheld: *Skinker vs. Heman*, 148 Mo. 349; *Heman vs. Franklin*, 99 Mo. App. 346.

Sec. 904. Sidewalks—repairs—regulations for construction of.—The street commissioner shall, whenever a sidewalk within the boundaries above described, is out of repair, notify the owner or owners of the adjoining property, or their agents, through the mail, to have the same repaired or rebuilt; and if such owner or owners, or their agents, fail to comply with said notice, within ten days after the date of mailing said notice, then the street commissioner shall cause the work to be done under the annual contract for artificial stone flagging, whose principal constituents are composed of crushed granite and Portland cement; provided, however, that the board of public improvements may grant permission for the temporary use of material other than that herein provided, during the erection or repair of buildings, or prior to the construction of the street; and provided, further, that the street commissioner, during seasons when permanent work cannot be done, shall, when he deems it necessary, notify the owner or owners or their agents to make temporary repairs; and if such notice is not complied with within five days, the street commissioner shall make such temporary repairs with brick under the annual contract. (M. C., sec. 902.)

The validity (or at least usefulness) of this section and the two following ones, seems to have been rendered doubtful by reason of the Charter amendment in 1901 to Art. VI., sec. 15, which omitted that portion relied upon by the municipal authorities as conferring authority under which these sections could formerly be enforced, and it has been claimed that there is now no authority for the annual repair contract. It is also to be remembered that under the present Charter, while the cost of reconstructing all highways is chargeable to abutting owners, the cost of repairing streets, avenues and highways is chargeable to the city; but repairs of boulevards, and of alleys and sidewalks, is to be paid for by special taxation on owners: See the present Charter, Art. VI., sec. 18, and note thereto. And see also as to distinction between the rules applicable to streets, and those applicable to sidewalks and alleys: *Skinker vs. Heman*, 148 Mo., 349, 353, reciting the provisions of the then charter, before the amendment.

Sec. 905. Cost of construction shall be a lien.—The cost of all work done by the street commissioner, under authority of the next preceding section, shall be charged as a lien upon the property adjoining the sidewalk repaired or rebuilt, and shall be paid by the owner or owners thereof. (M. C., sec. 903.)

See above note.

Sec. 906. Costs to be computed and assessed as special tax.—When said work is completed the president of the board of public improvements shall compute the cost thereof, and levy and assess the same as a special tax against each lot of ground chargeable therewith in the names of the owners thereof respectively, and shall make out and certify to the comptroller, on behalf of the contractor, bills of such cost and assessments accordingly as required by law. (M. C., sec. 904.)

See notes above. It was held under these sections that it was for the city authorities to say whether the sidewalks needed reconstructing or repairing and its judgment was conclusive in the absence of bad faith, and that the owner cannot defend against a tax bill on the ground that the repairs were unnecessary: *Heman vs. Franklin*, 99 Mo. App. 346; *Skinker vs. Heman*, 148 Mo. 349.

Sec. 907. Permission to build sidewalks required.—No contractor or property owner, or other person, shall lay, rebuild or repair, or cause to be laid, rebuilt or repaired, any sidewalk within the city, without first having obtained written permission from the street commissioner so to do. (M. C., sec. 905.)

Sec. 908. Penalty for constructing sidewalks contrary to ordinance.—Any person constructing or causing to be constructed, within the district above described, a sidewalk of material other than that provided for, and every contractor, property owner, or owners, or their agents, who shall fail, neglect or refuse to observe the requirements of sections 903, 904 and 907, or violate the same, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than fifty dollars for each offense. (M. C., sec. 906.)

Sec. 909. Sidewalks repaired by owner on notice—cost special tax.—The street commissioner shall, whenever a sidewalk is out of repair, notify the owner or owners, or their agents, of the property adjoining the same, through the mail, to have the same repaired within five days; and if such owner or owners, or their agents, fail to comply with said notice within the time specified, then the street commissioner shall cause such sidewalk to be repaired, and the cost thereof shall be assessed as a special tax on the property adjoining such sidewalk. (Ord. 20538, amending M. C., sec. 907.)

See note to sec. 904 supra; and see Charter Art. VI., sec. 18 and note. Under the old provisions of the Charter this ordinance was sustained as valid: *Skinker vs. Heman*, 148 Mo. 349, 353; the owner could not defeat the special tax bill by showing that the sidewalk was not out of repair: *Heman vs. Ring*, 85 Mo. App. 231 and cases cited.

Sec. 910. Repair of alleys—notice—special tax.—The street commissioner shall, whenever the pavement of an alley is out of repair, cause the same to be repaired; but he shall notify the owner or owners, or their agents, of the property adjoining that portion of the alley needing repairs, through the mail, at least five days prior to commencing any work of repair, that such repairs will be made. The cost of making such repairs shall be assessed as a special tax upon the adjoining property, and each lot shall be taxed only for the repairs made on that portion of the alley adjoining it and lying between the lot line and the center of the alley. (Ord. 20538, amending M. C., sec. 908.)

See notes supra.

Sec. 911. Repairs—materials to be used.—Whenever the board of public improvements shall consider it advisable and for the best interests of the city, in repairing any improved public street, the cost of which is payable by the city, to use materials different in kind from those with which the street is constructed, it may, by a vote of a majority of all its members, direct the repairs to be made of such materials and in such manner as it deems best; and it shall be the duty of the street commissioner to have such repairs made in accordance with the directions of the board. (M. C., sec. 909.)

Sec. 912. Gas light companies to repair streets—when—stop-cock boxes.—In all instances where the gas light companies authorize or cause an opening to be made in any street or alley of the city for the purpose of putting down pipe, or for any other purpose, it shall be the duty of said companies to repair the street or alley and place it in as good condition, in the opinion of the street commissioner, as it was before the excavation or opening was made in the street or alley, and the repairs must be continued as circumstances may require for the period of one year after the said excavation has been refilled, and it shall be the duty of the street commissioner to cause any repairs which in his opinion are not complete to be completed, and the cost of such repair by the street commissioner shall be deducted from the payment due by the city for lighting the streets. All gas stop-cock boxes shall be located in the sidewalks within one foot of the curbstone, in front of the premises to be supplied, and shall come up even with the pavement. When stop-cock boxes cannot be placed in the sidewalks on account of vaults, they shall be placed in the street, clear of the gutter paving, and within four feet of the curbstone. (M. C., sec. 910.)

See cases cited in note to Sec. 921.

Sec. 913. Stop-cocks—location of—misdemeanor.—All persons, corporations or associations supplying gas for heating, illuminating or other purposes, shall place stop-cocks and boxes on the main supply pipe leading into any building on the sidewalk in the manner provided for in the next preceding section, so that the supply of gas can be shut off without entering the building or premises. Any person or persons, corporation or association violating the provisions of this and the next preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than fifty dollars, nor more than five hundred dollars for each offense. (M. C., sec. 911.)

Sec. 914. Streets may be closed temporarily—use—misdemeanor.—The street commissioner is authorized, with the approval of the mayor, to close any street, alley, public place or highway and withdraw the same from public use temporarily and during such period as public work thereon shall make such action necessary. Any person using or attempting to use said street, alley, or public place or highway so withdrawn from public use, or driving or attempting to drive any animal or vehicle thereon, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars nor more than fifty dollars for each offense. (M. C., sec. 912.)

This ordinance does not offend the Charter provision that the power to vacate streets and to regulate their use is vested in the assembly; it is in no sense a delegation of that legislative power to the mayor and street commissioner but is simply a police regulation passed in pursuance of the general welfare clause: *Haller vs. St. Louis*, 176 Mo. 606, 620.

Sec. 915. Duty of police.—It shall be the duty of the police within their respective districts to watch for and arrest persons violating the provisions of the next preceding section. (M. C., sec. 913.)

Sec. 916. Shade trees—where planted—violation misdemeanor.—Shade trees may be planted near the curbstones of the sidewalk; provided, that the same shall not be planted over two feet inside the curb line, except with the permission and under the direction of the street commissioner. Any person who shall fail to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars. (M. C., sec. 914.)

As to rights of City Forester respecting shade trees, etc., see Art. 12 of this Chapter (secs. 1254 to 1257).

Sec. 917. Permit to private persons to construct streets, etc.—The board of public improvements is hereby authorized to grant permission to the owners of property fronting upon or adjoining any street, avenue, public highway or alley, to grade, construct or reconstruct the curbing, guttering, roadway paving or sidewalk paving of such street, avenue, public highway or alley, at said property owners' own cost and expense. All such work shall be done under the supervision of and according to plans and specifications approved by said board. The roadways of streets, avenues and public highways so constructed or reconstructed shall be cleaned and repaired by the city as other streets of similar material and construction are cleaned and repaired. All such permits shall be given upon the express condition that they shall not be construed to impair in any way the right of the city to reconstruct such streets, avenues, public highways or alleys at any time, nor to entitle such owners to any claim for damages against the city for reconstructing the same. (M. C., sec. 915.)

Sec. 918. Deposit to be made.—Before such permission is issued the party or parties making application therefor shall pay into the city treasury a sum of money, to be fixed by the board of public improvements, but not less in any case than two hundred and fifty dollars, said sum to be a special fund, out of which shall be paid the cost of all engineering and inspection which shall become necessary on account of any work done under such permission, as well as all costs for refilling, or any other expenses to which the city may be put on account of such work, or of any violations of the conditions or regulations under which the same is done, and if, after deducting all such payments, there be any remainder, it shall be returned to the party or parties by whom the fund was created. (M. C., sec. 916.)

Sec. 919. Vaults under sidewalks—regulations for construction.—The board of public improvements may, when requested by property owners, grant permits to construct vaults under sidewalks, subject to the following regulations: First, the area which may be occupied under a sidewalk by a property owner in front of his building shall be limited to the space between the building line and a line five feet from and parallel to the exterior line of the curbing. In no instance shall the ground under an entrance to an alley between the building line and the curb line of the street be excavated. Second, the outer area wall shall be laid in first-class hydraulic cement mortar, and shall be pointed outside at least four feet down from the top of the wall. The wall shall not be less than two feet thick at the bottom for a height of twelve feet battered to eighteen inches at the top in all cases. Third, detail drawings showing the plan of construction of the vault, and written specifications for same shall be submitted with application, and when approved by the board of public improvements and permit issued thereon, shall be kept on file in the street department. (M. C., sec. 917.)

For Charter authority to regulate and prohibit building of vaults under sidewalks see Art. III., sec. 26, clause 9. Under a similar charter power in Kansas

City it is held that if the city has passed no ordinances on the subject, a person has a right as abutting owner to maintain a vault under his sidewalk, provided the safety of the public and the public easement is not disturbed: *Gordon vs. Peltzer*, 56 Mo. App. 509, 604.

Sec. 920. Vaults—penalty for construction without permit.

—Any property owner, agent, builder or any person who shall excavate the ground under a sidewalk without first having obtained a permit from the board of public improvements so to do, or who shall construct a vault under a sidewalk without a permit from the board of public improvements, or who shall construct a vault not in accordance with the plans and specifications approved by the board of public improvements, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars; or who, when notified by the street commissioner to remove a vault constructed without permission of the board of public improvements, or to alter its construction so that it shall conform with the approved plans and specifications, shall fail to do so forthwith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars, and every day that such vault is allowed to remain or is not changed or altered to conform with its duly approved plans and specifications shall be deemed a separate offense. (M. C., sec. 918.)

Sec. 921. Excavations—not to be made without permission.

—No person shall make or cause to be made any excavation on any public street, highway or alley, without written permission of the street commissioner so to do, except public work done under the authority of the water or sewer commissioner, who at the time of ordering any such excavating shall notify the street commissioner of the same. (M. C., sec. 919.)

See *infra* sec. 926. The above ordinance was considered in *Laclede Gas Light Co. vs. Murphy*, 170 U. S. 78, affirming *State ex rel. vs. Murphy*, 130 Mo. 10, holding that the right of the Laclede Gas Light Co., if such rights existed under its charter granted by the state, was still subject to such reasonable regulations as the city deemed best to make for the public safety and convenience and that the company was bound to comply with such. See also as to such a regulation being a reasonable one: *Westport vs. Mulholland*, 159 Mo. 86.

Sec. 922. Excavations—regulations respecting.—In excavating in any street or other public way, all material for paving or macadamizing must be removed with the least possible injury or loss of the same, and together with the excavated materials from the trenches must be placed where they will cause the least possible inconvenience to the public. The width of the excavation shall be no greater than is necessary for doing the work, and whenever it shall be deemed necessary by the street commissioner, sheeting and bracing shall be used to keep the sides of the trenches perpendicular and prevent unnecessary caving. The street must be opened in the manner which will cause the least inconvenience to the public, and admit of the uninterrupted passage of water along the gutters. No excavation made for the purpose of connecting service pipes with water or gas mains shall be kept open over night, and every precaution must be taken to protect the trench so as to insure the public safety. (M. C., sec. 920.)

Sec. 923. Excavations in sidewalks to be bridged.—When ever any person shall excavate the sidewalk of any street for building purposes, it shall be his duty to place a strong and substantial foot bridge over such excavation in the line of the sidewalk; said bridge shall be at least five feet broad and securely railed on each side, so that foot passengers may pass over it safely and conveniently at all times. (M. C., sec. 921.)

Sec. 924. Excavations in streets—to be fenced, etc.—obstructions — red light.—Every person who shall cause to be made any excavation in or adjoining any public street, alley, highway or public place, shall cause the same to be fenced in with a substantial fence not less than three feet high, and so placed as to prevent persons, animals or vehicles from falling into said excavations; and every person making or causing to be made any such excavations, and every person who shall occupy or cause to be occupied any portion of any public street, alley, highway or public place with building materials or any obstruction, shall cause one red light to be securely and conspicuously posted on or near such excavation, building material or obstruction; provided, such obstruction does not extend more than ten feet in length, and if over ten feet and less than fifty feet, two red lights, one at each end, shall be so placed, and one additional light for each additional fifty feet or part thereof, and shall keep such lights burning during the entire night. (M. C., sec. 922.)

Ordinances imposing such duty to fence excavations only applies to cases where the owner's property extends up to the highway and the excavation or depression is in such close proximity to that highway as to endanger the safety of travelers *as travelers* on such thoroughfare: *Moran vs. Pullman Pal. Car Co.*, 134 Mo. 641, 650. That portion of the ordinance requiring a red light to be posted was referred to in the case of *McCarty vs. Transit Co.*, 192 Mo. 1. c. 399.

Sec. 925. Penalty.—Any person violating or failing to comply with any of the provisions of the next four preceding sections of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten dollars, nor more than five hundred dollars. (M. C., sec. 923.)

Sec. 926. Excavations in streets—additional regulations—fund for expenses—permit—manner of excavation—restoring paving—expenses of inspection—withdrawal of special fund.—Any person, firm or corporation desiring to make an excavation in any public street, alley or highway, for any purpose whatever, shall apply to the street commissioner for a permit, which permit shall only be issued after the applicant has deposited with the city treasurer the sum of twenty-five dollars for each seventy-five feet of trench or fractional part of seventy-five feet to be excavated, as a special fund to be used by the street commissioner as hereinafter provided, but no excavation permit shall, however, be issued during the winter months if in the opinion of the street commissioner the conditions of the weather are such as to make it impracticable to refill the trench on account of frozen ground, unless it becomes imperative to repair leaks in water pipes, gas pipes or sewers; in such cases the trenches shall be refilled with sand, if ordered to do so by the street commissioner.

It is provided, however, that when the deposits with the city treasurer herein required aggregate the sum of five thousand dollars no further deposit shall be required from any one party except such as are necessary hereunder to keep the aggregate deposit fully equal to such sum of five thousand dollars.

SPECIAL PERMIT NECESSARY.

No excavation shall be made in any public street, alley or highway more than two blocks in length at any one time, except by special permit from the street commissioner.

DRIVEWAY ACROSS EXCAVATION.

In all cases where excavations are made entirely across the public highways, a substantial driveway shall be maintained by the party making the

excavation, across such excavation until such excavation is refilled, and at all times shall be subject to the approval of the street commissioner.

FILLING EXCAVATIONS—RESTORATION OF PAVING.

In making excavations in any public street, alley or highway the paving material and earth removed must be kept separate, and deposited in a manner that will occasion the least inconvenience to the public, with provision for proper surface drainage and a safe passageway for travel. The refilling with earth of all trenches made in any public street, alley or highway, shall be done at once in thin layers not exceeding four inches in height, firmly rammed with a rammer weighing not less than thirty pounds until the excavation is filled up to the proper line for placing the pavement thereon. But in case the said refilling is not done to the entire satisfaction of the street commissioner, then the street commissioner shall have the right to take out all the earth from the excavation and have the same refilled at the expense of the party who made the excavation and charge the cost thereof against the deposit of money belonging to the aforesaid party. The street or alley pavement after refilling shall be placed in as good shape and condition as it was before such excavations were made. All deficiencies in material shall be made good with new material by the party making the excavation. Whenever a trench is excavated in any public street, alley or highway upon which is laid a pavement of granite, brick, asphalt, bituminous macadam or wood blocks, the street commissioner shall direct how much of the pavement it will be necessary to remove, and how much of the old paving material can be used again; all deficiencies shall be made good with new material by the party making the excavation. The pavement shall be restored in a firm and stable manner; whenever a pavement is laid on a concrete foundation, fresh cement shall be used to replace the old concrete taken out, and the old concrete shall be used as a partial filler and not hauled away. The new concrete and the pavement proper must immediately thereafter be replaced in a good and workmanlike manner.

INSPECTION.

Whenever any of the aforesaid work is done under a permit from the street commissioner as hereinbefore provided, in any public street, alley or highway, such work, together with the work of refilling the trench and restoring the pavement, shall be done under the charge and direction of an inspector appointed by the street commissioner, whose duty it shall be to see that the aforesaid work is properly done, and is in accordance with such rules and regulations as may be prescribed by the street commissioner. The pay of the said inspector shall be charged against the deposit hereinbefore provided, and shall be at the rate of thirty cents per hour. The time allowed the inspector shall be computed only for the number of hours he is actually inspecting the work. Whenever a person, firm or corporation applies for a street excavation permit, he shall state in writing in his application the hour he or they will commence work, and the inspector's time shall be allowed from the hour so stated, whether the work is commenced or not; provided the inspector is on the ground prepared to oversee the work. When any of the aforesaid work is not done strictly in accordance with the instruction of the inspector, or in compliance with the rules and regulations prescribed by the street commissioner, or is not properly maintained for a period of two years after the completion of said work, the said commissioner shall cause all such work to be done and the cost thereof shall be charged against the deposits hereinbefore provided.

WITHDRAWAL OF SPECIAL FUND.

Whenever the whole or part of said deposit shall have been expended for the purpose herein described, no new permit for excavation shall be issued until the fund is brought up again by further deposit with the city treasurer to the full sum required by this section. Whenever any person who has a deposit with the city treasurer for the purpose of taking out permits for excavations under this section, desires to withdraw such deposit, he shall notify the street commissioner, who thereupon shall certify to the president of the board of public improvements a voucher for the unexpended balance of said deposit; provided that all excavations previously made have been refilled as required by this section and all pavements repaired to the satisfaction of the street commissioner, and have been maintained in good order for at least two years. The president of the board of public improvements shall certify said voucher to the city auditor, who thereupon shall draw his warrant upon the city treasurer in favor of said person for said amount standing to the credit of the special fund created by the payments herein provided, and shall take his receipt in full of all claims against the city on account of said payments. (Ord. 21457, amending M. C., sec. 924.)

Sec. 927. Permits for occupying streets and sidewalks with building material.—All permits heretofore issued by the commissioner of public buildings authorizing the occupation of any portions of public streets, alleys, or sidewalks, for use in connection with building operations, or for the placing thereon of building materials, shall be and are hereby revoked, and the further use of such streets, alleys and sidewalks for the purposes aforesaid shall be unlawful except as provided in sections 928 and 929. (Ord. 21394.)

Sec 928. Temporary occupation of sidewalk, alley or street—permit, how obtained—premises to be kept in orderly condition—special fund to be kept up—authority of street commissioner—what parts of sidewalk, etc., may be occupied—further regulations, etc.—withdrawal of special deposit.—Any person, firm or corporation desiring to temporarily occupy any portion of any public street, alley or sidewalk for the purpose of placing thereon materials, or rubbish, from building operations or for excavation for any area under a sidewalk, or for any purpose whatever in connection with the erection, removal, alteration or repair of any building or other structure, shall apply to the street commissioner for a permit for the temporary occupation aforesaid, and it shall be unlawful to occupy or obstruct any street, alley or sidewalk as aforesaid without a permit from the street commissioner, which permit shall only be issued by the street commissioner upon the presentation of a building permit from the commissioner of public buildings, authorizing the work which is to be done, and the city treasurer's receipt that the applicant has deposited with the city treasurer the sum of fifty dollars, without regard to the number of permits, as a special fund to be used by the street commissioner, to defray expenses by reason of a failure of the person, firm or corporation to whom the permit may be issued, to keep said streets, alleys and sidewalks adjacent to the premises whereon said building operations are carried on, in a clean and orderly condition during the time for which permission for said temporary occupation is asked; and it is hereby made the duty of any person, firm or corporation carrying on any building operations, to keep the streets, alleys and sidewalks adjoining the premises whereon said operations are conducted, in a clean and orderly condition during such operations, and at the expiration of the time stipulated in said permit, which shall not exceed the

time stipulated in the building permit, or whenever ordered by the street commissioner, the person, firm or corporation to whom the permit may be issued, shall remove all materials and rubbish from the streets, alleys and sidewalks adjoining said premises and shall leave the same in a clean and orderly condition.

STREET COMMISSIONER AUTHORIZED TO REMOVE OR REPILE
OBSTRUCTIONS.

The street commissioner is hereby authorized to clean the streets, alleys or sidewalks adjoining any premises whereon building operations are being carried on, whenever the same may be found in an unclean or disorderly condition, and he shall remove or repile any building materials or rubbish or obstructions which may be found outside of the spaces authorized by his permit to be occupied thereby, or within, four feet of any fire-plug or electric conduit manhole, and he shall issue a voucher for the payment of the cost of such cleaning or removal, which shall be charged against and paid from the deposit hereinbefore provided.

SPECIAL FUND ON DEPOSIT.

Whenever the whole or part of said deposit shall have been expended for the purpose herein described, the street commissioner shall notify said person, firm or corporation to whom the permit may be issued to pay so much money into the city treasury as will bring the deposit again up to the amount hereinbefore required, and in the event of the failure of said depositor to deposit such additional sum, said street commissioner shall revoke said permit and it shall be unlawful to occupy any of the aforesaid streets, alleys or sidewalks with materials, dirt or rubbish after the revocation of said permit or to neglect or refuse to remove all materials, dirt and rubbish from said streets, alleys and sidewalks after having been notified so to do by the street commissioner. The extent of occupation of such street, alley or sidewalk or part thereof for which a permit may be granted by said street commissioner, shall be as follows:

HOW MUCH OF SIDEWALK MAY BE OCCUPIED—REGULATIONS AS TO SIDE-
WALKS—DANGER SIGNALS.

Said permit shall not authorize the occupation of any sidewalk, street or alley, or part thereof other than that immediately in front of or in the rear of the premises of the building upon which said permit is issued. During the progress of building operations at least one-third of the sidewalk in front of the premises of the building for which such permit is granted shall be at all times kept free and unobstructed for the purpose of passage and clear of rubbish, dirt and snow. Such sidewalks must, if there are excavations on either side of same, be protected by substantial railings, which shall be built and maintained thereon so long as such excavations continue to exist. It is not intended hereby to prohibit the maintenance of a driveway for the delivery of material across such sidewalk from the curb line to the building side. It shall be permitted for the purpose of delivering material to the basement of the buildings, to elevate such temporary sidewalks to a height not exceeding four feet above the curb level of the street, and where excavations are made under or across any sidewalk, the street commissioner is hereby authorized to require such elevated temporary sidewalks to be erected so as to afford safe and convenient passage and such elevated sidewalks shall be provided with good substantial steps on both ends of the same, and shall have railings, as before specified, on both sides thereof. If the building to be erected is more than four stories

in height, and is set at or near the street line, there shall be built over such sidewalk a roof having a framework and covering composed of supports and stringers of three by twelve timbers, not more than eight feet from centers covered by two layers of two-inch plank. Said roof shall be maintained as long as material is being used or handled on said street front and above the level of such sidewalk. In all cases such temporary sidewalks and their railings and approaches and the roofs over the same shall be made, as regards ease of approach, strength and safety, to the satisfaction of the street commissioner. The occupation of the street for the storage of building materials shall never exceed, in front of any one building, one-quarter of the width of the roadway of the same, and in the streets containing railroad tracks such occupation shall not exceed one-half the distance from the curbstone to such railroad tracks. The occupation of any public alley as aforesaid shall not exceed one-half of the width of the same. [Brick, asphalt and bituminous macadam paving shall be protected with wood covering, composed of one-inch plank before any material is placed on it.] Earth taken from excavations and rubbish taken from buildings must not be stored upon sidewalks or roadways of streets or alleys and must be removed from day to day as rapidly as produced. Where dry rubbish, apt to produce dust, is being handled, it must be kept wetted down so as to prevent its being blown about by the wind. For all buildings more than four stories in height the use of derricks set upon the sidewalk is prohibited. Materials for such buildings shall be hoisted entirely within the inclosing walls of the same. The permission to occupy streets and sidewalks for purposes of building is intended only for use in connection with the actual erection, repair, alteration or removal of buildings and must terminate with the completion of such operation. It shall be unlawful to occupy any sidewalk or street or alley after the expiration of the time for which a permit has been issued by the street commissioner. It shall also be unlawful to occupy sidewalk, street or alley under authority of such permit for the storage of articles not intended for immediate use in connection with the operations for which such permit has been issued. Red lanterns shall be displayed and maintained during the whole of every night at each end of every pile of material in any street or alley and at each end of every excavation. It is provided that if the written consent and a waiver of claims for damages against the City of St. Louis of the owners of the property abutting upon the site of the proposed building is first obtained and filed with the street commissioner, the permission to occupy the roadway may be extended beyond the limits of such building upon the same terms and conditions as those herein fixed for the streets in front of the building sites themselves.

WITHDRAWAL OF DEPOSIT.

Whenever any person who has a deposit with the city treasurer for the purpose of taking out permits, as herein described, desires to withdraw said deposit, he shall notify the street commissioner, who thereupon shall certify to the president of the board of public improvements a voucher for the unexpended balance of said deposit; provided, that all streets, alleys or sidewalks have been cleaned as required by this section to the satisfaction of the street commissioner. The president of the board of public improvements shall certify said voucher to the auditor, who thereupon shall draw his warrant upon the city treasurer in favor of said person for said amount standing to the credit of the special fund credited by the payments herein provided, and shall take his receipt in full of all claims against the city on account of said payments. (Ord. 21394, amending M. C., sec. 925.)

That portion of the above section (928) which is enclosed in brackets was not passed as a part of the Revised Code, but is an amendment added by Ord. No. 22885

(approved March 13, 1907, after the submission of the Revised Code to the assembly), too late to become incorporated in this revision.

Temporary occupation of sidewalk by merchandise, etc. See Rev. Code, sec. 1216. A manufacturing company may make reasonable use of the streets for the deposit of their goods, for the purpose of loading or unloading, though not directly authorized by a municipal ordinance; but it has no right to make a permanent use of the street for storing its property, or to make such temporary use as would unreasonably interfere with travel: *Gerdes vs. Iron Co.*, 124 Mo. 347, 354; *Corby vs. Railroad*, 150 Mo. 1. c. 469-470. See also *Loth vs. Col. Theatre*, 197 Mo. 328, 347 *et seq.* While it is true that sidewalks are intended for pedestrians, it is also true that a temporary use of them, for a reasonable time, for goods or materials in making public improvements, building houses or carrying on business, is a lawful use; *Hesselbach vs. St. Louis*, 179 Mo. 505, 523. See also *Straub vs. St. Louis*, 175 Mo. 413; *Christman vs. Meierhoffer*, 116 Mo. App. 46, 51; *Frick vs. Kansas City*, 117 Mo. App. 488; *Westliche-Post vs. Allen*, 46 Mo. App. 181.

As to when obstructing a highway is a nuisance, see note to heading to R. C. Chap. XII., Art. 12, secs. 584 *et seq.*; see also what are proper uses to which a street may be put, note to Charter, Art. III., sec. 26, clause 2.

Sec. 929. Rubbish from burned buildings to be removed.—

Whenever a public sidewalk is obstructed by debris or rubbish caused by the burning of any building it shall be the duty of the owner of such property or his duly authorized agent to cause the same to be removed within seventy-two hours thereafter; and all serviceable building material which may be collected after the burning of the building may be placed by the owner or his duly authorized agent upon the street in front of such property; provided, that in no case shall the space thus occupied exceed that permissible in the preceding section, nor shall he be allowed to occupy this space for a period longer than one month unless a building permit be taken out for the reconstruction of such building, and a permit from the street commissioner be issued for the occupation of such street, alley or sidewalk. (*Ib.*, amending M. C., 926.)

Sec. 930. Penalty.—Any person, firm or corporation who shall violate the provisions of the last two preceding sections, or shall by another cause the violation thereof, shall on conviction, be deemed guilty of a misdemeanor and fined not less than five dollars nor more than one hundred dollars, for each offense, and every day whereon such violation shall exist shall be deemed a separate offense. (*Ib.*, amending sec. 927.)

Sec. 931. Condemned buildings, etc.—sale of, when.—In all cases where property, such as buildings, walls, fences, sheds, outhouses, or other material obstructions, shall have been taken or condemned in any proceeding for the opening of any public highway, a sale thereof shall be made by the city marshal, at public vendue, to the highest bidder, for cash, which shall be paid at the time of the sale and deposited in the city treasury within two days thereafter. The conditions of such sale shall be, that in the event the property so sold shall not be moved off of the public highway within twenty days from the day of sale, the city marshal shall proceed to sell the property so previously sold, or any portion thereof, again, and the money received at the first sale shall be forfeited to the use of the city, without recourse therefor, either by purchaser so neglecting to remove the same, his heirs or assigns. (M. C., sec. 928.)

Sec. 932. Streets—obstructions, to whom reported.—Whenever it shall come to the knowledge of the street commissioner that any street, alley, sidewalk, curbstone, avenue or carriageway, which has been duly dedicated or established according to law, has not been opened or is in any manner obstructed, or that there are any encroachments upon any such public highways within the city limits, he may, upon his own motion, or shall, at the desire of any person interested therein, inform the board

of public improvements at the first meeting thereof, and if it shall be found by said board that such opening, or removal of obstruction is desirable as a matter of public convenience or necessity, he shall immediately give the city counselor information thereof in writing, which shall be accompanied by a plat showing such obstructions or encroachments. (M. C., sec. 929.)

As to Charter authority concerning obstructions, etc., in streets, see Art. III., sec. 26, clause 9; also *ib.* clause 2; and see authorities cited in notes to the latter and to note in Rev. Code Chap. 11, Art. 12, under "Nuisances."

Sec. 933. Duty of city counselor.—The city counselor, upon the receipt of such information and plat, shall forthwith prepare a written order for the removal of such obstructions or encroachments, which shall be signed by the mayor, and city counselor, and directed to the city marshal, who shall immediately proceed to execute the same. (M. C., sec. 930.)

Sec. 934. Notice to be given.—Upon the receipt of any such order so signed, the city marshal shall give the owner or owners of the property fronting upon such obstructions or encroachments (and the occupant or occupants thereof if any be found thereon), at least five days' notice in writing, to the effect that if said obstructions or encroachments are not removed upon the expiration of the time mentioned in said notice, that the same will be removed by him at the expense of such owners. (M. C., sec. 931.)

Sec. 935. Notice—by publication when.—If, after diligent search, the city marshal is unable, from any cause to find any of the owners of the property fronting upon any such obstructions or encroachments, he shall immediately give such notice by publication, for five consecutive days, in the papers publishing the journal of the municipal assembly, and said notice, when so published, shall be directed to all the owners of said property who are known to the city marshal, and shall contain a brief description of the property belonging to owners who are absent or unknown. (M. C., sec. 932.)

Sec. 936. Marshal when to remove obstructions.—If, upon the expiration of the time mentioned in such notice so served, the obstructions or encroachments are not removed, the city marshal shall forthwith proceed to remove the same, and the expense of such removal shall be advanced by the city out of a fund to be specially set aside by ordinance for that purpose. (M. C., sec. 933.)

Sec. 937. Special tax bill to be issued.—As soon as the amount of the entire expense of such removal shall have been ascertained, it shall be assessed in favor of the City of St. Louis, against the ground fronting upon the obstruction or encroachment, pro rata, and the owner thereof, and a special tax bill shall be issued therefor by the comptroller and delivered to the collector for collection. (M. C., sec. 934.)

This section is said to be of doubtful validity since the Charter amendment of 1901, eliminating portion of former section 15 of Art. VI. But see as to Charter authority to remove obstructions at expense of owner, also Art. III., sec. 26, clause 9.

Sec. 938. Police examinations and reports as to repairs and cleaning by.—The police shall examine the condition of the streets and alleys within their respective districts from time to time and report to the street commissioner through the police commissioners such as need repairing; they shall also observe within their respective districts the cleaning

of the streets, alleys, avenues, market places and public squares of the city, and report to the street commissioner through the police commissioners such as need cleaning. (M. C., sec. 935.)

Sec. 939. Same—report as to littering and obstructing.—It shall be the duty of the police in their respective districts to enforce the provisions of this article, and to arrest any person violating any provisions thereof. And it shall also be their duty to promptly report to the street commissioner any and all streets or parts of streets or highways upon which any article has been placed, spilled or thrown in violation of the provisions of this article. They shall also examine the condition of the streets and alleys within their respective districts from time to time, and report, without delay, to the street commissioner through the police commissioners such as are obstructed in violation of any of the provisions of this article. (M. C., sec. 936.)

Sec. 940. Streets, cleaning — The work of sweeping and cleaning by machine or manual labor the carriageways and gutters of all streets and avenues of the City of St. Louis, paved with granite blocks, vitrified paving brick, wood blocks or asphaltum, shall be done by the street commissioner. All expenditures made under this section shall be paid out of the fund set apart for street cleaning—granite blocks, vitrified paving brick, wood blocks and asphaltum pavements. (Ord. 20220, amending M. C., sec. 937.)

ARTICLE III.

OF SPRINKLING.*

*For charter authority for ordinances concerning sprinkling see Art. VI., sec. 29. As to the duty of street car companies to sprinkle the space between the tracks see Rev. Code secs. 1901-1903.

Sec. 941. Sprinkling contract to be let.—The board of public improvements is hereby authorized and directed to let the work of sprinkling such of the streets and public places of the city, and parts thereof, as are the sprinkling districts designated in this article. (M. C., sec. 938.)

Sec. 942-1071.** [The sections from 942-1071 following in the Revised Code constituted ord. 22165 defining sprinkling districts and streets to be sprinkled, and amended M. C., sec. 939-993 and 994-1048 inclusive. See note below.]

**Sections 943 to 1006 inclusive of the Revised Code defines the sixty-four sprinkling districts into which the city is divided; sections 1007 to 1071 set forth the streets and places to be sprinkled. These sections were retained in the code at the request of the street department for convenience of reference, though in strictness they should have been excluded, since they are special ordinances and not of a technical general nature which are alone called for in a revision. The matter covered by sections 943 to 1006 is changed every year by annual ordinance (in accordance with the Charter Art. VI., sec. 29). The ordinance in the Revised Code covers the year 1906, and between the date of introduction of the revised ordinance and its passage, a new ordinance amending every section of the sprinkling provisions was enacted (Ord. No. 22716, approved Dec. 20, 1906), so that sections 943 to 1006 as enacted in the Revised Code were superseded and obsolete even before their approval as part of the revision. In view of these facts and especially since all of them are of a special nature at all events, and not properly a part of a revision, they have not been printed in this volume.

Sec. 1072. Lettings, how made—damage to fire-plug.—Each district shall be let separately and the board of public improvements

shall at all times, so far as is practicable, let the contract or contracts for sprinkling said districts at one and the same time. The use of water from the fire and sprinkling plugs of the city shall be given to the contractors in the several districts free of charge. The board of public improvements shall prescribe the rules and regulations under which the fire and sprinkling plugs shall be used, as aforesaid, which rules and regulations shall be submitted to and approved by the mayor before they shall become binding. The contractor in each district shall be responsible for any damages or injuries done to the fire plugs used by him or his employes in the performance of his contract. All repairs of damages or injuries done by the contractor or his employes to a fire plug shall be made by the water commissioner, who shall certify the cost of same to the street commissioner, whose duty it shall be to deduct this amount from any money due to the contractor for work performed, or which may become due him under his contract, and the auditor shall transfer this amount from the street sprinkling fund to the water-works fund. In cases where it would manifestly inconvenience the city to allow the use of any particular plug or plugs, as aforesaid, the board of public improvements, with the approval of the mayor, is hereby authorized to establish plugs or water boxes for the use of the contractor. (M. C., sec. 1049.)

The contracts embody a similar condition as to deduction for injuries to fire-plugs, etc. Where the amount to be deducted for injuries claimed by the city to have been done by the contractor's employes is in dispute, an acceptance of the amount tendered by the city to be in full, is a settlement with the contractor, although he accepts under protest: *Pollman Coal Co. vs. St. Louis*, 145 Mo. 651.

Sec. 1073. Specifications to be made.—Before advertising for bids, the board of public improvements shall make all specifications for the contemplated contracts, which shall be submitted to the mayor for his approval. (M. C., sec. 1050.)

Sec. 1074. Bids may be rejected.—Should the bids received for the aforesaid work of sprinkling be considered excessive in price, the board of public improvements may reject any or all of them and advertise again for bids until the bids made shall be satisfactory to the board. (M. C., sec. 1051.)

Sec. 1075. Quantity of water to be used, how regulated.—The amount of water used and the manner of its use, together with the whole work of sprinkling, shall be under the control and supervision of the street commissioner, under such rules and regulations as may be prescribed by the board of public improvements, and approved by the mayor. (M. C., sec. 1052.)

Sec. 1076. Employees in street sprinkling division—how appointed—duties—tenure—qualification—salaries—conveyances, etc.—The street commissioner is hereby authorized and may with the approval of the mayor appoint the following subordinates in the street sprinkling division of the street department, who shall hold their respective offices during the pleasure of the street commissioner, and shall also perform any service other than is provided in this article, when so ordered by the street commissioner, to-wit: One superintendent of sprinkling, who shall receive a salary of one hundred and twenty-five dollars per month, and shall give a bond of twenty-five hundred dollars for the faithful performance of his duties, with two good and sufficient securities to be approved by the mayor and council, two special inspectors at two dollars and

fifty cents per day and also one clerk at seventy-five dollars per month. The superintendent and inspectors shall furnish their own conveyances and the cost of the subsistence and maintenance thereof shall, when approved by the street commissioner, be paid out of the city treasury; provided, the same shall not exceed for each the sum of twenty dollars per month. (Ord. 20539, amending M. C., sec. 1053.)

Sec. 1077. **Annual lettings—bond, etc.**—The lettings for sprinkling the districts hereinbefore established shall be made annually on or about the first Tuesday in January, and shall cover the work of sprinkling for one year, beginning on the first day of February. The successful bidder in each district shall give a bond with two good and sufficient securities, to be approved by the mayor and council, to guarantee the city a faithful performance of the contract. Nothing herein contained shall be construed as preventing any one person, firm or corporation from being awarded the work of sprinkling in two or more districts, if their bids shall be satisfactory to the board of public improvements. (*Ib.*, amending M. C., sec. 1054.)

Sec. 1078. **Street commissioner may withdraw parts of streets.**—The street commissioner shall have full power and authority to withdraw any street or part of street from the operation of this article, either for the whole or any part of the term specified in this article; and in such case, the pro rata cost of the sprinkling thus omitted shall be deducted from the monthly payments to the contractor; such pro rata cost to be ascertained by calculating the length that the street so withdrawn bears to the total length of the streets covered in the special district such streets are sprinkled in. (M. C., sec. 1055.)

Sec. 1079. **Street commissioner may withdraw fire-plug.**—The street commissioner shall also have full power and authority to withdraw from use by any sprinkling contractor any fire plug in any sprinkling district; and no contractor shall thereafter draw water from any plug so withdrawn. (M. C., sec. 1056.)

Sec. 1080. **Cost, how paid—form of tax bill.**—The cost of the foregoing work shall be paid, as follows: The clerical and inspecting forces rendered necessary by the execution of this article and all other expenses, save only the contract price to the contractor for sprinkling, shall be paid and borne by the treasury of the city. The contract cost of the sprinkling shall be assessed as a special tax in favor of the city by the president of the board of public improvements on the adjoining property, fronting or bordering on the streets and public places of the city and parts thereof, where the sprinkling is contracted to be done, in the proportion that the linear feet of each lot, fronting or bordering on the street or public place, so contracted to be sprinkled, bears to the total number of linear feet of all property chargeable with the special tax aforesaid in the territory embraced by the contract under which said sprinkling is to be done. Said special tax bills shall be made out and certified to the comptroller by the president of the board of public improvements, and by the comptroller delivered to the collector of this city on or before the first Monday in April, in each year, or as soon thereafter as practicable. Said special tax bills shall be and become a lien on the property charged therewith, from the first Monday in April of the year in which they are issued, and they shall be prima facie evidence of the liability of the property charged therewith to

the extent and amount therein specified, and may be collected of the owner of the land, in the name of and by the City of St. Louis, as any other claim in any court of competent jurisdiction, with interest at the rate of six per centum per annum from the first day of May in each year, and if not paid by the first day of June in each year, then at the rate of eight per centum per annum from the first day of April in each year, and all bills in the hands of the collector, uncollected and unpaid on the second day of June in each year, shall be transmitted to the city counselor, for collection by suit or otherwise. The said special tax bills shall be substantially in the following form, and the signature of the president of the board of public improvements and of the comptroller to said special tax bills may be affixed by a stamp exhibiting a fac simile of the same:

Sec. 1081. Contract cost to be paid monthly.—The contract cost of the sprinkling shall be paid monthly out of the city treasury to the contractor, subject to the terms, specifications and conditions contained in each contract, respectively, and the city treasury shall be reimbursed for such expenditures by the proceeds of the special tax bills aforesaid. (M. C., sec. 1058.)

Sec. 1082. Temporary clerks to be employed.—To enable the president of the board of public improvements, the comptroller and the city counselor to carry out the provisions of this article, said officers respectively are authorized, with the approval of the mayor, to employ such temporary clerks as are necessary, in their several departments, who shall be paid for their services while employed, at the rate of two dollars and a half per day, and a limited number of said clerks, namely one in ten, shall be paid three dollars per day. (M. C., sec. 1059.)

ARTICLE IV.

OF NUMBERING OF HOUSES.

Sec. 1083. Manner of numbering in old city limits.—The numbering of all houses fronting on public streets in the limits of the city, as they existed prior to the year one thousand eight hundred and seventy-six, shall be in conformity with the following rules, viz: First, the odd numbers shall apply to the north and west sides of the streets, and the even numbers shall apply to the south and east sides of the streets; second, on all streets running in a northwardly and southern direction the numbering shall commence with number one, at Market street, and shall increase north and south at the rate of one hundred numbers for each block, as nearly as the varying series of streets will admit of—thus: Arsenal street, Arrow street, Chouteau avenue, Market street, Franklin avenue, Cass avenue, Spring street, Salisbury street, and their continuations east and west shall be rectified lines of uniformity in numbering north and south; third, on all streets running in a westwardly direction the numbering shall commence at the wharf, and shall increase going westwardly at the rate of one hundred numbers for each block as near as the varying series of streets will admit of—thus: The Wharf, Third street, Ninth Street, Fourteenth street, Jefferson avenue, Grand avenue, and their connections northwardly and southwardly, shall be rectified lines of uniformity in numbering westwardly; fourth, the general rule shall be that one hundred numbers shall represent each block going westwardly from the wharf, and a like number for each block north and south of Market street. (M. C., sec. 1060.)

Sec. 1084. Numbering—manner of, between Carondelet and Keokuk street.—The numbering of all houses fronting on public streets of that part of the City of St. Louis, between the former southern city limits at Keokuk street and the northern limits of the former city of Carondelet, and between the wharf and the western city limit, shall be in conformity with the provisions of section one of ordinance number five thousand seven hundred and one. The numbering of all houses fronting on the public streets of the former city of Carondelet shall be in conformity with the following rules: First, the odd numbers shall apply to the north and west sides of the street; and the even numbers shall apply to the south and east sides of the streets; second, on all the streets running in a north-erly and southerly direction, the numbering shall be in numerical continua-

tion of that of the City of St. Louis, north of the former City of Carondelet, as provided for in section one of ordinance five thousand seven hundred and one; third, on all streets running in an eastwardly and westwardly direction, the numbers shall commence with number one hundred at Main street, and shall increase east and west at the rate of one hundred numbers for each block as nearly as the variations of the streets will admit of. (M. C., sec. 1061.)

Sec. 1085. Numbering—in new limits.—The numbering of all houses fronting on public streets in that part of the city situated between Grand avenue and its southern continuation, and the city limits of eighteen hundred and seventy-six shall be in conformity with the following rules, viz.: First, the odd numbers shall apply to the north and west sides of the streets, and even numbers shall apply to the south and east sides of the streets. Second, on all streets running in a northwardly and southwardly direction, the numbering shall commence with number one at Laclede avenue and its western continuation, and it shall increase north and south at the rate of one hundred numbers for each block, as nearly as the varying series of streets will admit—thus: Eichelberger street, Arsenal street, Chouteau avenue and a straight line running from the southeast corner of Chouteau avenue and Manchester road to the southeast corner of Forest Park, thence along the south line of Forest Park and its western continuation of the city limits, Laclede avenue and its western continuation, Easton avenue, Natural Bridge road and Calvary avenue shall be rectified lines of uniformity in numbering north and south. Third, on all streets running in a westwardly direction, the numbering shall commence with thirty-six hundred at Grand avenue, running south of Florissant avenue, and shall increase going westwardly at the rate of one hundred numbers for each block, as nearly as the varying series of streets will admit of—thus: Grand avenue, Bellefontaine road, Eudora avenue, Gustine avenue, Vandeventer avenue, Prairie avenue, Morgan Ford road, Tower Grove avenue, Park avenue, running through the subdivision of the Laclede race course, Boyle avenue, Pendleton avenue, Vine Grove avenue, Clarence avenue, Gravois avenue, King's highway, Lay avenue and Snead avenue and their connections northwardly and southwardly, shall be rectified lines of uniformity in numbering westwardly. Fourth, the general rule shall be that one hundred numbers shall represent each block going westwardly from Grand avenue, and a like number for each block north and south of Laclede avenue. (M. C., sec. 1062.)

Sec. 1086. Street commissioner.—The street commissioner shall establish all house numbers, and shall allow one number for about twenty feet of vacant ground, and he shall furnish all owners of houses with the information necessary for them in placing their numbers on their houses, giving in each case a certificate of the number properly applicable to it, and all numbering shall be done strictly in conformity with the directions of the street commissioner. (M. C., sec. 1063.)

Sec. 1087. Penalty for violation.—All persons owning or occupying houses are hereby required to number their houses in conformity with the provisions of this article, and any person who shall number or attempt to number a house otherwise than in conformity with the provisions of this article, or who shall fail to change his number, if wrong, on notification by the street commissioner, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five, nor more than fifty dollars for every offense. (M. C., sec. 1064.)

ARTICLE V.

OF STATIONARY AWNINGS.

Sec. 1088. **Stationary awning, not permitted within certain limits.**—No stationary awning shall be erected in this city within the district bounded north by the north line of Washington avenue, south by the south line of Walnut street, east by the river, and west by the west line of Fourteenth street. Any person erecting a stationary awning in said district shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five dollars for each and every day such stationary awning is permitted to remain standing contrary to the provisions of this section; provided, however, that this section shall not apply to any permanent portico now existing at the main entrance to any hotel or public hall within said district. (M. C., sec. 1065.)

An awning on a sidewalk in a city, while an encroachment on the sidewalk, is not necessarily an illegal encroachment: *Hisey vs. Mexico*, 61 Mo. App. 248.

Sec. 1089. **Limits within which hereafter no awning to be erected.**—Outside of the district described in the first section of this article, as far as the north line of Cass avenue, south to the south line of Chouteau avenue, east by the river, and west by the west line of Fourteenth street, no stationary awning shall hereafter be erected; provided, however, that such as have been or may be hereafter taken down for the purpose of repairing or rebuilding, may be re-erected within six months from the time of such taking down; and provided, also, that they shall be reconstructed with columns, girders and rafters of iron, and of such plan as may be approved by the board of public improvements. (M. C., sec. 1066.)

Sec. 1090. **Permits may be granted.**—The board of public improvements, subject to such conditions and regulations as may be established by ordinance, may, when requested, grant permits for the construction of awnings in this city, outside of the districts prescribed in sections ten hundred and eighty-eight and ten hundred and eighty-nine, the plan and material for such awning to be approved by said board. Any person who shall erect an awning outside of the district described in the first section of this article without permission first had and obtained from the board of public improvements, or who shall erect an awning not in conformity to the plan, or of material other than that approved by the board, shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than five dollars for each and every day such awning is permitted to remain standing, contrary to the provisions of this section. (M. C., sec. 1067.)

Sec. 1091. **Conditions of grant of permit.**—No permit shall be granted for erection or re-erection of any awning under this article, except on the condition that the city reserves the right on three months' notice, to require same to be taken down at the cost of the owner. (M. C., sec. 1068.)

Sec. 1092. **Balcony at theater permitted.**—Nothing contained in this article shall be held to prohibit the erection and maintenance of a permanent portico or balcony at the main entrance of any theater or opera house in said district; provided, however, that said portico or balcony shall

be constructed with iron columns and on a plan to be approved by the board of public improvements. (M. C., sec. 1069.)

See R. C., secs. 118 and 1243. See also *Loth vs. Columbia Theatre Co.*, 197 Mo. 328, 343, where this ordinance (then sec. 1069 of Mun. Code), was involved in the facts before the court and its provisions and validity, slightly discussed.

ARTICLE VI.

OF ELECTRIC WIRES, TUBES AND CABLES.

Sec. 1093. Conditions of placing wires, etc.—No wires, tubes or cables conveying electricity for the production of light, heat or power shall hereafter be placed along or across any of the streets, alleys or public places in the city, by any person, corporation or association not having, previous to the passage of ordinance number 16894, approved October 26, 1892, accepted and complied with ordinance number 12723, now amended, or unless duly authorized by the municipal assembly, and then only as provided by ordinance. (M. C., sec. 1070.)

This section was part of Ord. 16894, app. Oct. 26, 1892.

The right of a company, even if its charter be derived from the state (as claimed by the *Laclede Gas Light Co.* in this case), to run electric wires, etc., is still subject to such reasonable, police regulations, and regulations of the use of the public streets as the city sees fit to impose, amongst others to require underground wires: *Laclede Gas Light Co. vs. Murphy*, 170 U. S. 78, affirming *State ex rel vs. Murphy*, 130 Mo. 10; *State ex rel vs. Murphy*, 134 Mo. 548 (afterwards overruled, but not on this point). See also cases cited below.

Telegraph and telephone companies have under the statute a right to occupy the streets in constructing their lines of wire, and with the consent of the city to lay the same under ground, and the city may contract with them as to the conditions of its consent, which are then binding upon it; the city in granting a company the right to such underground conduits acts in its proprietary capacity under the Charter. Although the telegraph company is not strictly a common carrier, the use of the streets by such a company is a public use, not inconsistent with the purposes a highway is intended to be used for, and the city may require it to permit other companies engaged in a similar business to lay their wires in its subway: *State ex rel Subway Co. vs. St. Louis*, 145 Mo. 551 (overruling *State ex rel vs. Murphy*, 134 Mo. 548). That the erection and maintenance of electric contrivances, telegraph and telephone poles and wires, on the streets, subject to all reasonable regulation and control by the city, is a proper use to which the streets may be put, and not a diversion to improper purposes, has been frequently held: *Julia Bldg. Assn. vs. Bell Tel Co.*, 88 Mo. 258; *St. Louis vs. W. U. Tel. Co.*, 149 U. S. 465, 467 (construing *St. Louis Charter*); *W. U. Tel. Co. vs. Guernsey Light Co.*, 46 Mo. App. 120; *Gay vs. Mut. Un. Tel. Co.*, 12 Mo. App. 485 (holding that ordinarily property owners cannot complain); *Forsythe vs. B. & O. Tel.*, 12 Mo. App. 494 (no right to erect unsightly poles); the regulations by the city must be reasonable: *State ex rel vs. Flad*, 23 Mo. App. 185; *Hannibal vs. Tel. Co.*, 31 Mo. App. 23.

The city may exact a charge in the nature of rental from telegraph companies for the occupation of its streets by telegraph poles: *St. Louis vs. W. U. Tel.*, 149 U. S. 465; s.c. 148 U. S. 92; *Lancaster vs. Briggs*, 118 Mo. App. 570; provided said charge is not so unreasonable as to operate to impair the obligations of contract: *St. Louis vs. W. U. Tel. Co.*, 63 Fed. 68, affirmed 166 U. S. 388. But while the city may regulate the use of the streets as to telegraph or telephone poles, wires, etc., it has not the right under its charter to fix the charges to be made by telephone companies: *St. Louis vs. Bell Telephone Co.*, 96 Mo. 623 (see R. C., sec. 1195, seeking to reserve such right); and even an express charter provision to that effect would confer no such right: *State ex rel vs. Telephone Co.*, 189 Mo. 83. See further as to right to contract for the use of the streets by telephone company: *California vs. Telephone Co.*, 112 Mo. App. 722; *Lancaster vs. Briggs*, 118 Mo. App. 570. And as to rights of cities and telephone companies over conduits and man-holes in the streets see *Mo. Ed. Elec. Co. vs. Weber*, 102 Mo. App. 95, with discussion of cases on the subject.

As to the law governing liability of an electric light company for injuries resulting from its wires on the public streets or alleys see *Gannon vs. Laclède Gas Light Co.*, 145 Mo. 502; *Winkelmann vs. Elect. L. Co.*, 112 Mo. App. 184; *Geismann vs. Electric Light Co.*, 173 Mo. 654.

Where the city by an ordinance gives its consent to a company to use the street by laying a conduit for conveying electricity, for a certain amount semi-annually, and then refuses to permit such use because it is claimed the ordinance is void, it cannot claim the consideration during the time it so prevents the company from using the street, although the supreme court during that time holds such ordinance void, afterwards overruling such holding and declaring it valid and enforcing the company's right: *National Subway Co. vs. St. Louis*, 169 Mo. 319.

Conduits, wires and manholes placed under the streets pursuant to permission, do not become the city's property, but remain that of the company, subject to the public easement of the use of the street and the city's regulation and control; and the company has a right to recover against a private person for the destruction of its property by the use of the street in an extraordinary and unusual manner: *Mo. Ed. Elect. Co. vs. Weber*, 102 Mo. App. 95.

Sec. 1094. Manner of placing to be prescribed by board of public improvements.—All wires, tubes or cables conducting or transmitting electricity along or across any street, alley or public place of the City of St. Louis, which are to be placed above the surface of the ground, shall be secured and placed in such manner as the board of public improvements may prescribe. (M. C., sec. 1071.)

Part of ordinance 18680. Prior to Ord. 18157 this section read "all such wires, tubes," etc., but the word "such" was therein and in subsequent amendments omitted. See R. O., 1892, sec. 604.

Sec. 1095. Underground district.—No wires, tubes or cables conducting or transmitting electricity shall be placed above the surface of any street, alley or public place in that part of the city bounded on the east by the Mississippi River, on the west by the west line of Twenty-second street, on the north by the north line of Wash street, on the south by the south line of Spruce street, and its prolongation to the west line of Twenty-second street, after the thirty-first of December, eighteen hundred and ninety-eight, except conductors placed inside of posts or brackets used in connecting lamps or signal boxes on streets with underground conductors; and except, also, such poles, wires, cables, tubes and other electrical conductors, as may be necessary and convenient for local distribution; provided, however, that such poles may be erected in alleys only; and provided that plans and specifications therefor shall be approved by the board of public improvements, and a permit therefor issued by said board. (M. C., sec. 1072.)

This and following sections (to 1117 inclusive), are the provisions of Ord. 18680 known as the "Keyes Ordinance" (approved Sept. 8, 1896).

Ordinance 21046, approved March 10, 1903, amended by Ord. 22194, approved Jan. 30, 1906, relates specially to the Western Union Telegraph Co., and the Postal Telegraph Cable Co., and, so amended, is as follows (the amended sections being two and five, and the sections of the Mun. Code referred to in sec. 1 corresponding to R. C., secs. 1095, 1096, 1097, 1098 and in sec. 2 corresponding to R. C., sec. 1102 and the reference to Art. and Chapter being same as in R. C.):

Whereas, on or about the time ordinance number eighteen thousand six hundred and eighty became a law and operative, the Western Union Telegraph Company and the Postal Telegraph Cable Company failed to comply with all of the conditions required of them under ordinance number eighteen thousand six hundred and eighty, as they contended that one provision was unreasonable, and that the matter was before the supreme court of the United States, and as the said court subsequently so construed the said provision, and the said provision was amended to make its requirements reasonable, but in the meantime the Western

Union Telegraph Company and the Postal Telegraph Cable Company were denied the privileges and requirements of ordinance number eighteen thousand six hundred and eighty; therefore,

Be it Ordained by the Municipal Assembly of the City of St Louis, as follows:

Section One. The Western Union Telegraph Company and the Postal Telegraph Cable Company, corporations doing business and occupying the streets and alleys of St. Louis with their poles and wires, are hereby exempted for a period of one year after the passage of this ordinance from the penalties fixed by sections Ten Hundred Seventy-two, Ten Hundred Seventy-three, Ten Hundred Seventy-four and Ten Hundred Seventy-five of the Municipal Code of St. Louis.

Section Two. The Western Union Telegraph Company and the Postal Telegraph Cable Company are hereby authorized and directed to file the fifty thousand dollar bond and the acceptance specified in section ten hundred and seventy-nine of the Municipal Code of St. Louis, relating to telegraph companies, which said bond shall contain the conditions required in said section ten hundred and seventy-nine, and also a further clause that the giving of the said bond by the Western Union Telegraph Company or by the Postal Telegraph Cable Company, as the case may be, shall not be considered as a waiver of any of the rights of said company under and by virtue of a certain decision of the supreme court of the United States in a certain cause wherein the City of St. Louis was plaintiff and the Western Union Telegraph Company was defendant, reported in the one hundred and sixty-sixth volume of the United States Supreme Court Reports at page three hundred and eighty-eight, which said decision affirmed the decision in the same case in the United States Circuit Court for the Eastern Division of the Eastern District of Missouri, reported in the sixty-third volume of the Federal Reporter at page sixty-eight, in which it was ruled that a certain charge of five dollars per pole on the poles of the said defendant company was unreasonable.

Section Three. Upon the filing of the bond and acceptances specified, the Board of Public Improvements is authorized and directed to consider such application as the aforesaid companies may make, and grant such permits as are authorized in Article Six, Chapter Twelve of the Municipal Code of St. Louis, and in the manner therein set forth.

Section Four. From and after one year from and after the date of approval of this ordinance the provisions of the Municipal Code of St. Louis shall become of full force and effect and the Western Union Telegraph Company and the Postal Telegraph Cable Company, their resident officer, manager and employees, their wires and equipment in the City of St. Louis shall be subject to the penalties fixed in the penal sections of Article Six, Chapter Twelve of the Municipal Code of St. Louis.

Section Five. All periods of time stated in Article Six of Chapter Twelve of the Municipal Code of St. Louis and in ordinance number twenty-one thousand and forty-six, so far as the same may be applicable to the said Western Union Telegraph Company and the postal Telegraph Cable Company shall date from the approval of this amendatory ordinance in the same manner as set forth in said Article six of Chapter Twelve of the Municipal Code of St. Louis, and in ordinance number twenty-one thousand and forty-six.

Sec. 1096. Penalty for placing wire, etc., above surface.—Any person or persons, corporation or association, placing any wires, tubes, cables, poles or other apparatus for conducting or transmitting electricity above the surface, along or across any street, alley or public place in the aforesaid territory after December 31, 1898, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than five hundred dollars, and each and every wire, tube or cable over each and every street for each and every day shall constitute a separate offense. (M. C., sec. 1073.)

Sec. 1097. Wires, etc., when deemed obstruction.—All conductors, poles and other apparatus used for conducting or transmitting electricity along or across any street, alley or public place in the section of the city described in section 1095, after December 31, 1898, shall be deemed an obstruction to and encroachment on the public highways, except those used by street railways, as now authorized by special ordinance. (M. C., sec. 1074.)

Sec. 1098. Penalty for failure to place wires, etc., under ground.—Any person, or persons, corporation or association owning or using wires, tubes or cables for the purpose of conducting or transmitting electricity above the surface of and along or across any street, alley or public place, within the district defined in section ten hundred and ninety-five, who shall permit the same to remain above the surface of said streets, alleys or public places after December 31, 1898, shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be fined not less than ten nor more than one hundred dollars, and each and every wire over each and every street, alley or public place, shall constitute a separate offense for each and every day that said wires, tubes or cables are permitted to remain. (M. C., sec. 1075.)

Sec. 1099. Permit to place wires, etc., under ground required.—Any person or persons, or any corporation or association which is now authorized by its charter or which may be authorized by its charter within ninety days after the passage of ordinance number 18680 to operate wires, tubes or cables conducting, transmitting or employing electricity for public use, and desiring to place said wires, tubes or cables under the surface of any of the streets, alleys or public places of the city, is hereby authorized after the expiration of ninety days from the approval of ordinance number 18680 to construct underground conduits and to place and operate wires, tubes and cables therein, but must apply for and receive from the board of public improvements a permit to construct such conduits, ducts, manholes, and other appurtenances as may be required for placing said wires, tubes or cables underground; said application to be accompanied by full, general and detailed plans, showing the route, capacity and dimensions of said conduits, ducts, manholes and other appurtenances. (M. C., sec. 1076.)

Sec. 1100. Consideration of manner of placing wires, etc., under ground by board of public improvements.—The board of public improvements is hereby authorized and directed upon receipt of any application, made as provided in section 1099, or upon its own motion, to designate a day, which shall be not more than ninety days after the approval of this amendatory ordinance, on which they will consider the matter of constructing conduits, ducts, manholes and other appurtenances in the streets, alleys and public places named in said application or motion, and shall give fifteen days' public notice by advertisement in the city daily papers of the time and place and object of their meeting, and of the streets to be considered, and on such day all parties interested may appear, and any person or persons, corporation or association specified in section 1099, desiring to construct a conduit on any street, alley or public place named in the advertisement, shall at that time present in writing, with plans and details, a statement of their requirements. After said hearing the board of public improvements shall consider all of the applications, statements, plans and details presented, and examine into the space available for conduits or ducts under the streets, alleys and public places, named in the advertisement, and shall decide upon, prepare and approve such plans, details, construction, conduits, ducts, manholes, materials and conditions as in their opinion the public interests seem to demand, and shall include in the plans such ducts, manholes and appurtenances as the city may require for its police and fire alarm circuits and telephone service, said ducts, manholes and appurtenances as the board may provide for the use of the city, to be constructed and maintained by the parties receiving the permit, and to be used by the city free of charge or cost of any kind. Where more than one application, statement or plan is presented to the board of public improvements

for conduits, ducts or manholes on any street, alley or public place, said board shall have power to compel such applicants to build and maintain joint conduits, and in case the construction thereof involves a joint outlay, and in case of disagreement among interested parties, said board shall apportion the expense of the construction and maintenance of such conduits, ducts, manholes and appurtenances as may be jointly constructed by two or more applicants. (M. C., sec. 1077.)

See where two companies jointly constructed and used conduit: Wagner vs. Ed. Fl. Co., 177 Mo., 44, 49.

Sec. 1101. When persons or corporations using wire excluded, etc.—All persons, corporations, or associations which fail to appear on the day and at the time designated, and submit applications above stated, or fail to accept in writing the apportionment of costs made by the board of public improvements, or fail to deposit with the city treasurer the amount required by section 926 within ten days after notice from said board as to its finding, shall be excluded from all right or privilege to obtain under this article, conduit, duct or manhole facilities in the streets, alleys or public places named in the advertisement insofar as such streets, alleys and public places are within the territory defined in section 1095, but shall not be excluded from such privileges in such portions of such streets, alleys and public places as are outside the limits of such territory, nor in such streets, alleys, and public places within said territory as are not included in said advertisement, and no person or corporation shall hereafter obtain a permit under this article from the board of public improvements for conduit privileges within such portions of the streets, alleys and public places named in said advertisement as are within said territory defined in section 1095. But, in reference to all streets, alleys or public places which have not been assigned, or which having been assigned, and are not occupied as herein provided, the board of public improvements may proceed, and such persons, corporations or associations as are specified in section 1099, may make application and may acquire rights at any time hereafter, in the manner and subject to the same obligations, duties and conditions provided in this article. (M. C., sec. 1078.)

Sec. 1102. Permits to construct, alter or repair underground conduits, etc., conditions.—The board of public improvements is hereby authorized and directed to grant permits to construct, alter or repair conduits, ducts, manholes, and other appurtenances, under the surface of any street, alley or public place within the city and to string wires, tubes and cables therein for conducting or transmitting electricity, under the terms and in accordance with the provisions of this article, to any person or persons, corporation or association furnishing or using electricity for public use, on compliance by such person, persons, corporation or association with the terms and conditions of this article, and article eight of this chapter, and all other ordinances in force at such time; provided that such person or persons, corporation or association shall file with the city register a penal bond in the sum of fifty thousand dollars, with two or more good and sufficient securities, approved by the mayor and council, conditioned that the conduits, ducts, manholes and other appurtenances shall be constructed in strict accordance with the plans approved by the board of public improvements and that the city shall be held harmless from all suits for damages which may arise from the construction of said conduits, ducts, manholes and other appurtenances; and conditioned further that such person or persons, corporation or association, their assigns or successors, shall faithfully comply with all the terms of this article and chapter and with

all ordinances and laws now in force, or which may be hereafter enacted, concerning conduits, ducts or other appurtenances or underground wires. Such bonds shall be renewed from time to time, whenever the mayor may so order, as a condition of the continued use of the conduit privileges obtained under this chapter, and any refusal to renew a bond when so ordered shall forfeit all rights hereunder. (M. C., sec. 1079.)

Sec. 1103. Penalty when no permit obtained.—Any person or persons, corporation or association, who shall string, or cause to be strung, any wire, tube or cable above or beneath the surface of any street, alley or public place without a permit, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars. (M. C., sec. 1080.)

Sec. 1104. City's right to purchase conduits—method of.—The city reserves the right to purchase at any time after the expiration of fifteen years from the date of the approval of this ordinance all of the conduits or ducts constructed by any person or company, under authority from the city by pursuing the following method: Upon the passage of an ordinance authorizing the purchase of any or all of said conduits or ducts, the mayor, comptroller, president of the board of public improvements (or a majority of them), may at any time give thirty days' notice in writing to any owner or occupant of any conduit or duct constructed under authority of the city, of intention to purchase the whole or any part of such conduit or duct, at a valuation to be placed thereon by three arbitrators, one to be chosen by the mayor of the city, and to be named in such notice, one to be chosen by such owner or occupant and to be designated in writing to the city within ten days after the service of such notice, and the third to be chosen by the two so chosen on the twentieth day after the service of such notice, or in the event of their failure or refusing to so choose the third arbitrator on said twentieth day, then such third arbitrator to be appointed within five days thereafter by the presiding judge of the St. Louis Circuit Court. The arbitrators shall meet at the mayor's office in the city on the thirty-first day after the service of said notice, and after duly qualifying shall proceed without unnecessary delay to ascertain and determine the value of the conduit or duct or part thereof desired to be purchased and described in such notice, and they, or a majority of them, shall sign an award specifying such valuation, one copy to be filed with the city register and one copy to be mailed to the owner or occupant of the conduit or duct or part thereof to be purchased, at his or its last known address in the city, and each of the parties to such arbitration shall pay one-half of the arbitrator's fees, which shall not exceed fifty dollars a day for each arbitrator actually employed, immediately upon the making of the award, and if not so paid the same may be sued for by such arbitrators, each for himself, and recovered in any court of general jurisdiction in the city. After the filing of such award the city shall within ninety days pay to such owner or occupant or into the Circuit Court of the city for his or its use, if he or it refuses to receive the same, the amount of such award, and may thereupon take possession of such conduit, duct or part thereof, and shall then be and become the owner thereof, and all rights of such former owner or occupant thereto or therein shall immediately cease and determine. (M. C., sec. 1081.)

Sec. 1105. Conduits, etc., to be maintained without cost to city.—All conduits, ducts, manholes and other appurtenances shall be maintained by the owners thereof without cost to the city and to the satis-

faction of the board of public improvements; failing such maintenance by the respective owners, the said board may order any work done which it may deem necessary for the proper maintenance at the cost of the owners, and failure by the owner to pay such cost shall constitute a breach of the bond provided in section eleven hundred and two. (M. C., sec. 1082.)

See *Mo. Ed. Elect. Co. vs. Weber*, 102 Mo. App. 95, 101. This case also holds that the company using conduits by the city's permission and constructed in accordance with the ordinances need build its manholes in the streets only of sufficient strength to bear such weights as they may be subjected to when the street is used for ordinary and proper street purposes; and that if unusual and extraordinary use results in the destruction of the manholes, the party causing the damage is liable.

Sec. 1106. City to control conduits, etc.—may order changes, etc.—The city shall at all times through the board of public improvements have the right to inspect, superintend and control the construction of conduits, ducts, manholes and other appurtenances constructed under this chapter, and the city reserves the right from time to time to order any changes to be made either in the construction, material or manner of maintaining the same, or in the location in the street. All such changes or alterations shall be made by the owner without expense to the city, and if any person or persons, corporation or association fails to comply with any ordinance directing such changes within such time as may be specified therein, then said board may cause such change or alterations to be made by the city and the owner of the conduits or other appurtenances so changed or altered shall pay the cost thereof on demand by the city comptroller. Failure to make such payment when so demanded shall constitute a breach of the bond of such owner and shall forfeit all the rights and privileges hereby granted. (M. C., sec. 1083.)

Sec. 1107. Streets to be restored to good condition—penalty.—Whenever any portion of any streets, alley or other public place shall be torn up or disturbed by the construction, alteration, repair or maintenance of any conduit, duct or manhole or other appurtenance, it shall be the duty of the person or persons, corporation or association upon the completion of such work, and whenever ordered to do so by the street commissioner to immediately restore such street to its original condition without cost to the city. Any failure to comply with this section shall entitle the street commissioner to restore such street at the cost of the person or corporation owning or controlling such conduit, and shall constitute a breach of the bond provided for in section 1102. (M. C., sec. 1084.)

Sec. 1108. Procedure where use of common trench necessary—penalty.—Whenever the plans as approved by the board of public improvements require two or more applicants for conduits to use a common trench, space or conduit in any portion of any street, alley or public place, then all such applicants shall carry on the work of construction at such point as nearly at the same time as may be practicable and as may be directed by said board, so as to disturb the street at such point to the least degree possible, and any company or persons, refusing or failing to carry on its work of construction at such point, at that time and in the manner directed by said board, shall be deemed to have waived any right to any conduit privileges in such street, alley or public place at such point. (M. C., sec. 1085.)

Sec. 1109. When permits become void.—Any permit granted under this chapter shall become void unless the work therein authorized is begun within sixty days after such permit is issued and is proceeded with continuously and in good faith to completion within a reasonable time thereafter. (M. C., sec. 1086.)

Sec. 1110. Provisions not applicable to certain companies unless accepted, etc.—Ordinance number 18680 [sections 1094 to 1117 inclusive,] shall not apply to any company now existing in the city and authorized to maintain its wires, tubes and cables along and upon the public streets of the city, under and in pursuance of any contract now existing between such company or companies and the city for the lighting of the streets of said city with electricity, unless said company or companies shall upon the approval of said ordinance file with the city register an acceptance of the terms and provisions of this article, and shall also file with the city register a release and discharge of the city from the agreement and covenant of the city to pay any part or portion of the cost or expense of placing the wires, tubes and cables of such company or companies underground and in conduits as provided in said contracts. And it is further provided that if said company or companies shall accept the provisions of ordinance number 18680, [sections 1094 to 1117 inclusive] and agree to the terms thereof and release the said city from all and every covenant in the said contracts, to pay any part of the expense of placing the wires of such company or companies in conduits, and under the surface of the earth, and if said companies shall jointly and severally agree to pay into the city treasury five thousand dollars on the first day of September, 1896, and a like sum on the first day of January, of each year thereafter down to and including January first, 1900, then the city does hereby release and discharge said companies from any and all liability to pay to the city the sum of five per cent of their gross receipts from private lighting which may have accrued or may hereafter accrue during the life of said contracts numbered twenty-one hundred seventy-six, twenty-one hundred seventy-seven and twenty-one hundred seventy-eight, and during the faithful performance of said contracts, which latter terminate by limitation, December thirty-first, 1899, and January first, 1900, respectively; provided, however, that after January first, 1900, said companies shall not be released from the payment of the five per cent of their gross receipts, required by section 1125, nor from complying with all the other terms and conditions of said section 1125, and all other general ordinances pertaining to electric lighting companies; but, on the contrary said companies expressly agree after January first, 1900, to be bound by the provisions of article six of this chapter, and of all ordinances now in force or hereafter adopted. (M. C., sec. 1087.)

Sec. 1111. Permits only granted when terms of ordinance accepted.—No permits shall be granted to any company or companies to construct underground conduits under ordinance number 18680 [secs. 1094 to 1117 hereof inclusive], until such company or companies shall file with the city register an acceptance of the terms, conditions and obligations of said ordinance [sections] in all respects. (M. C., sec. 1088.)

Sec. 1112. When rights under ordinance terminate.—The rights, privileges and powers conferred and authorized by this article shall cease and determine and become null and void on the fifteenth day of April, nineteen hundred and forty. (M. C., sec. 1089.)

Sec. 1113. Prices for services.—Until April fifteenth, nineteen hundred and forty, the prices charged to customers for telephones, tele-

phone services, electric light and power by persons, corporations or associations obtaining underground conduit privileges in the streets, alleys and other public places within the city, shall not in any case exceed the prices charged for a similar or corresponding use or service on January first, eighteen hundred and ninety-six. (M. C., sec. 1090.)

See note to sec. 1093 as to right of city to fix telephone rates.

Sec. 1114. When poles and fixtures to be removed.—All poles and other fixtures shall be removed by the owners thereof within ninety days after their wires, tubes and cables supported thereon shall have been removed. (M. C., sec. 1091.)

Sec. 1115. Restrictions as to use of conduits, etc.—No person, persons, corporations or associations, building conduits, under ordinance number eighteen thousand six hundred and eighty [sections 1094 to 1117 hereof inclusive], shall have the right or privilege to lease or sublet space within such conduits, or to use such conduits, for purposes other than required by the individual needs of the person, persons, corporation or association so building such conduits. Any violation of this clause shall be deemed a misdemeanor, and shall cause a forfeiture of all the rights and privileges granted hereunder. (M. C., sec. 1092.)

See where, under the St. Louis ordinance, two companies jointly constructed and used underground conduit: *Wagner vs. Edison Elec. Co.*, 177 Mo. 44, 49.

As to power of city to compel company to permit another to use its conduit see note to sec. 1093.

Sec. 1116. City reserves right to repeal.—The city reserves the right to alter, amend or repeal ordinance number eighteen thousand six hundred and eighty [sections 1094 to 1117 hereof inclusive], at any time hereafter. (M. C., sec. 1093.)

Sec. 1117. Certain apparatus to remain overhead—conditions.—All clock, burglar alarm, commercial printer, nightwatch and other messenger callbox wires, carrying currents of low tension, and not fastened or attached to poles or other fixtures, placed or set in the streets, alleys or other public places, within the limits named, shall be permitted to remain overhead; provided that all such wires shall not be less than thirty-five feet above the surface and securely fastened, and that each wire or cable shall be covered throughout with insulation, to be approved by the supervisor of city lighting, and that each and every wire shall be tagged with lead tags (and in such manner that it will be impossible to remove the tags without destroying the wire or the fixture to which it is attached), plainly marked with the owner's name and that no such wires shall be used to connect with immoral places or whose existence is contrary to law. (M. C., sec. 1094.)

Sec. 1118. Application and plat to be filed.—Any person or persons, corporation or association, duly authorized by ordinance to do business in the city, and desiring to place along or across any of the streets, alleys or public places of the city, such wires, tubes or cables, shall file in the office of the board of public improvements an application therefor, stating in detail the streets, alleys or public places which said wires, tubes or cables are to occupy, and the manner in which said wires, tubes or cables are to be secured or supported and insulated, together with a plat showing the route of such wires, tubes or cables. (M. C., sec. 1095.)

Sec. 1119. Permit may be granted.—The board of public improvements is hereby authorized, upon the filing of the application and plat required by the preceding section, to grant a permit for such occupancy of the streets, alleys and public places herein named, with such restrictions, regulations and qualifications as may be prescribed by said board, and under the supervision and to the satisfaction of the supervisor of city lighting. (M. C., sec. 1096.)

Sec. 1120. Wires, etc., may be placed on telegraph poles, etc., when.—That in case any person or persons, corporations or association, duly authorized by ordinance, desiring to place along or across any of the streets, alleys or public places of the city, such wires, tubes or cables, shall, with the application and plat heretofore provided for file in the office of the board of public improvements the written consent of any telegraph or telephone company, or any other electric light or power company, doing business in the city, to the placing of such wires, tubes or cables upon the poles of said telegraph, telephone, electric light or power company, situated in the streets, alleys or public places named in such application, the board of public improvements is hereby authorized to grant a permit for such occupancy of the poles of such telegraph, telephone, electric light or power company, with such restrictions, regulations and qualifications as may be prescribed by said board, and under the supervision and to the satisfaction of the supervisor of city lighting. (M. C., sec. 1097.)

Sec. 1121. Poles to be placed in alleys — when.—Whenever an alley is available for the placing of poles for the support of such wires, tubes or cables, the board of public improvements will advertise for five days previous to a day set for hearing objections or arguments in favor of placing the said poles in the alley. If, after due consideration, the board of public improvements are of the opinion that the placing of poles for the purposes aforesaid is practicable, such poles shall be placed along said alley instead of along the street named in application. Where the poles are set in any alley they shall be located as near the side lines of the alley as practicable, and in such a manner as not to incommode the public or the adjoining proprietors or residents. (M. C., sec. 1098.)

Sec. 1122. Dimensions, construction and location of poles.—The poles used as herein provided shall be of sound timber, not less than five inches in diameter, at the upper end, straight, shapely, and of uniform size, neatly planed or shaved, and thoroughly painted with two coats of lead and oil paint of such color as may be directed by the board of public improvements, and be supplied with iron steps, commencing twelve feet from the surface of the ground and reaching to the arms supporting the wires, tubes or cables; said wires, tubes or cables shall be run at a height not less than twenty-five feet above the grade of the street. Whenever the poles are erected on a street they shall be placed, in all cases, when practicable, on the outer edge of the sidewalk, just inside the curbstone and on the line dividing the lots one from the other, and in no case be so placed as to obstruct the drainage of the streets, or interfere with or damage in any way the curbstones, trees or other public or private property on the line of the street or alley or public place where such poles shall be erected. (M. C., sec. 1099.)

See R. C., sec. 1181, nearly the same.

Sec. 1123. Streets and alleys to be replaced—Any person or persons, corporation or association having made excavations in the

streets, alleys or public places of the city for the purposes aforesaid, shall replace the streets, alleys or public places in such manner and in accordance with such regulations as may from time to time be prescribed by ordinance, or by the board of public improvements, and to the satisfaction of the street commissioner. (M. C., sec. 1100.)

Sec. 1124. Alterations in location of poles, etc., may be ordered—penalty for failure to proceed.—The right is hereby reserved to the board of public improvements at any time to direct any alterations in the location of said poles, and also in the height at which the wires, tubes or cables shall run; but before any alteration is made, at least five days' notice in writing shall be given to the person or persons, or the president or the officer in charge of the company affected by the proposed alteration, and reasonable opportunity shall be afforded the representative of such company, or any citizen interested, to be heard in regard thereto. But when any such alteration shall be ordered, the said company shall, within five days thereafter, commence such alterations and complete the same as soon as practicable thereafter; and upon failure so to do, it shall be deemed guilty of a misdemeanor, and punished as hereafter provided. (M. C., sec. 1101.)

· See as to when city has right to compel change of location of telegraph or telephone poles, note to sec. 1179. See also as to regulations of poles, etc., sections 1179-1195 and notes thereto appended.

Sec. 1125. Privileges conferred—on what conditions—percentage of receipts—bond.—No person or persons, corporation or association shall be entitled to any of the privileges conferred by this article, except upon the following conditions: That said person or persons, corporation or association, before availing himself or itself of any of the rights or privileges granted by this article, shall file with the city register his or its acceptance of all the terms of this article, and agree therein that he or it will file with the comptroller of the city, on the first days of January and July of each year, a statement of his or its gross receipts from his or its business arising from supplying electricity for light or power for the six months next preceding such statement, which shall be sworn to by such person or persons, or the president or secretary of such corporation or association; and further agree that he or it will, at the time of filing said statement with the comptroller, pay in to the city treasurer two and one-half per cent on the amount of such gross receipts up to the year eighteen hundred ninety, and five per cent on the amount of gross receipts thereafter. And said person or persons, or corporation or association, shall, at the time of filing said acceptance, also file with the city register his or its penal bond in the sum of twenty thousand dollars, with two or more good and sufficient securities, to be approved by the mayor and council, conditioned that he or it will comply with all the conditions of this article, or any ordinance which may be hereafter passed, regulating the placing of wires, tubes or cables in the streets and alleys for the purposes named therein; that he or it will comply with all the regulations made by the board of public improvements having reference to the subject embraced in this article or any ordinance herein named that he or it will make the statements and payments required by the provisions of this section, and will save the city harmless and indemnified from all loss, cost or damage by reason of the exercise of any of the privileges granted by this article or any ordinance which may be hereafter passed relating to the subject-matter of this article. (M. C., sec. 1102.)

Sec. 1126. Misdemeanor — penalty.—Any person or persons, corporation or association which, or any president, manager, superintendent or officer in charge of any corporation or association who shall violate or fail to comply with any of the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty dollars, nor more than five hundred dollars. (M. C., sec. 1103.)

Sec. 1127. Reservation of rights.—The city reserves the right to alter, amend or repeal this article at any time. (M. C., sec. 1104.)

Sec. 1128. Permits to string wire—use must be legal.—No permit shall hereafter be issued for the purpose of stringing wires for communication unless the applicant shall, in writing, agree that the said wires shall not be used to connect to or with places used for immoral purposes, or whose existence is contrary to law. That the said wires shall not be used for any purpose contrary to law. (M. C., sec. 1105.)

Sec. 1129. Illegal use of wires—voids permit — removal.—Any permit obtained on the representation that the wires are to be used for legal purposes and to connect legal places and are used for other purposes, shall be and become void, and any wires strung along or across any street, alley or public place on the strength thereof shall be unlawful, and it shall be the duty of the supervisor of city lighting to cut down the same and remove them from the streets. Any person or persons interfering with or preventing such removal of wires shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars nor more than five hundred dollars. (M. C., sec. 1106.)

Sec. 1130. Penalty for illegal use of wires.—Any person or persons, corporation or association who shall obtain a permit to string wires across or along any street, alley or public place on the representations required in section eleven hundred and twenty-eight of this article, and shall, in violation of the same, string wires for illegal purposes, and to illegal places, shall be deemed guilty of a misdemeanor, and on conviction thereof be fined not less than ten nor more than five hundred dollars. (M. C., sec. 1107.)

Sec. 1131. Penalty for stringing wires without permit.—Any person or persons, corporation or association, or the president or officer in charge thereof who shall string, or cause to be strung, any wire, tube or cable or electrical conductor, for communication along or across any street, alley or public place without a permit, shall be deemed guilty of a misdemeanor, and on conviction thereof be fined not less than ten nor more than five hundred dollars, and every street or alley crossed shall constitute a separate offense. (M. C., sec. 1108.)

Sec. 1132. Duty of police to enforce provisions herein.—It shall be the duty of the police to assist in the enforcement of this article. (M. C., sec. 1109.)

Sec. 1133. Penalty for removing cover of manhole, etc., without authority.—Any person or persons who shall remove the cover or lid of any manhole or service box for electric or other wires without having a certificate of authority shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten nor more than five hundred dollars. (M. C., sec. 1110.)

Sec. 1134. Registry—authority to work about wires, etc.—All wire-using companies having underground conduits shall register the employes whom they wish to be recognized as authorized to open the man-holes and service boxes for the purpose of making repairs or inspection of electric wires. The registration shall be kept by the supervisor of city lighting, who shall issue certificates of authority, upon the written request of the company employing the person, subject to such rules and regulations as the board of public improvements may prescribe. The said certificate shall be good for three months, unless the person is sooner discharged by the wire-using company, or is found to be irresponsible and untrustworthy by the supervisor of city lighting. (M. C., sec. 1111.)

Sec. 1135. Manholes and service boxes to be guarded—signals required—penalty.—It shall be the duty of any person, officer or employe of a wire-using company, and duly authorized and registered as such, to take necessary precaution, and see that an open manhole or service box is guarded, and a red flag signal displayed by day and a red light signal displayed by night at the opening until the cover is restored and securely locked. Any person, officer of any wire-using company or employe who shall fail to observe any or all of the requirements of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than five hundred dollars. (M. C., sec. 1112.)

Sec. 1136. When certificates to open manhole, etc., may be revoked.—Any person who shall be registered and has a certificate of authority to open manholes and service boxes for electric wires shall be deemed irresponsible and untrustworthy should it be found that he in any way interfered with the wires and cables owned by any other company than the one employing the said person, and which may be in a manhole or service box in which he is working, or is discharged by the company upon whose request certificate was issued, and his certificate of authority shall in either of such events be canceled. (M. C., sec. 1113.)

Sec. 1137. Cancellation of certificate disqualifies.—Any person whose certificate of authority is canceled shall be treated as an unauthorized person, as set forth in section eleven hundred and thirty-three. (M. C., sec. 1114.)

Sec. 1138. Duty of police to enforce five preceding sections.—It is hereby made a part of the duty of the police department to see that the provisions of the five sections next preceding are enforced, by arresting and prosecuting any person disturbing a cover or lid of a man-hole or service box for electric wires without the proper certificate of authority as herein defined. (M. C., sec. 1115.)

ARTICLE VII.

OF SUPERVISOR OF CITY LIGHTING, AND REGULATIONS PERTAINING TO ELECTRICAL APPARATUS.*

*Office of supervisor of city lighting was created by ordinance No. 15105, approved June 25, 1889

Sec. 1139. Office of supervisor created—inspectors to be appointed.—The board of public improvements, with the approval of the mayor, shall appoint an expert in electric lighting, who shall be an engineer of not less than five years' practical experience. His official title shall be

supervisor of city lighting, and he, with the approval of the president of the board of public improvements, shall appoint one clerk and five inspectors; said inspectors shall be skilled and experienced in the kind of work they are to inspect. (M. C., sec. 1116.)

Sec. 1140. Salaries, etc.—draughtsman and additional inspectors.—The supervisor of city lighting so appointed shall receive a salary of two thousand five hundred dollars a year, payable monthly, and shall give a good and sufficient bond in the sum of ten thousand dollars, conditioned as the bond of other city officers, and to be approved by the mayor and council. The clerk shall receive a salary of one thousand five hundred dollars a year, payable monthly. The inspectors shall receive a salary of one thousand two hundred dollars a year, each, payable monthly, and whenever, in the opinion of the supervisor of city lighting, a horse and vehicle shall be necessary for the proper discharge of the duties of any inspector, the same shall be furnished and kept by the inspector, who shall receive compensation therefor at the rate of twenty dollars per month. The supervisor of city lighting may, with the approval of the president of the board of public improvements, appoint one draughtsman, one assistant clerk, and five night inspectors, and temporarily for work specified in ordinances relative to the city lighting department, five inspectors of the second class; all shall be skilled and experienced in the kind of work they are to perform, and such appointments are not to be made until the public service demands the same. The draughtsman and the night inspectors shall (each) receive a salary of twelve hundred dollars a year, payable monthly, and the assistant clerk shall receive a salary of nine hundred dollars a year, payable monthly. The inspectors of the second class shall receive compensation for their services at a rate of ninety dollars per month. (M. C., sec. 1117.)

Sec. 1141. Duties of supervisor.—It shall be the duty of the supervisor of city lighting to carry out the instructions of the board of public improvements in relation to lighting the streets, parks, public places and public buildings of the city with gas or electricity; the construction and operation of all plants used for distributing gas or electricity for light, heat, power, telegraph or telephone purposes. He shall report all cases of violation of ordinances, rules or regulations of the board of public improvements in relation to the distribution and use of gas or electricity for the purposes aforesaid, and shall, under the instruction of the board of public improvements, prosecute the offending parties. He shall have the charge of all employes appointed by him and shall see that they perform their duties faithfully. (M. C., sec. 1118.)

Sec. 1142. Apparatus used in lighting public buildings in charge of supervisor.—The supervisor of city lighting shall have charge of all lamps, fixtures, pipes, tubes, cables, conductors and appurtenances used in lighting the public buildings of the city; and shall install, alter and maintain same, as directed by the board of public improvements. The cost thereof, shall be paid out of funds annually appropriated for lighting public buildings, unless the cost of such is provided for by special appropriation. (Ord. 20172. See M. C., p. 991.)

Sec. 1143. Supervisor to inspect premises.—The supervisor of city lighting is hereby authorized and directed to inspect all premises on which apparatus for transforming energy of any kind into electrical energy, or the reverse, are located or premises where conductors for the trans-

mission of electricity are placed, for the purpose of ascertaining their condition and management and reporting all violations of rules or ordinances to the board of public improvements. (M. C., sec. 1119.)

Secs. 1143 to 1152 are ordinance 16901.

Sec. 1144. Duty owners to admit supervisor.—It shall be the duty of every person, or persons, corporation or association, operating or controlling a plant for the production of electricity, or occupying premises on which electrical apparatus or conductors may be placed, to admit the supervisor of city lighting, or his duly authorized inspectors, and assist in making an examination of said premises. (M. C., sec. 1120.)

Sec. 1145. Duty of owners to employ competent men, etc.—It shall be the duty of every person or corporation operating a plant for the production or consumption of electrical energy or maintaining conductors for its transmission, to employ competent men, whose names shall be furnished the supervisor of city lighting, and recorded in his office, as their authorized agent or agents; one to be in charge of the same at all times while in operation, and who shall promptly execute all orders issued by the mayor, the supervisor of city lighting, or the chief of fire department, which may, in their opinion, prevent accident or injury to life or property; and to keep their wires or conductors that pass over any street, alley, or public place, or over or through any building, so marked that the owner of the same may be ascertained by inspection; the character of the mark to be determined by the supervisor of city lighting, and a record of all marks kept in his office, and should the marks become illegible, the wires or conductors shall be deemed abandoned, and it shall be the duty of the supervisor of city lighting to remove the same. (M. C., sec. 1121.)

Sec. 1146. Regulations governing conductors, etc.—The size of conductors, distance between supporters, and nature and quality of insulating materials to be used, shall, in all cases, be submitted to and subject to the approval of the board of public improvements. (M. C., sec. 1122.)

Sec. 1147. Cut-outs to be provided.—It shall be the duty of every person or corporation, supplying or using electricity or maintaining conductors for the same, to provide cut-outs, and such other devices as may be necessary to cut off all electrical communications, of any part of said conductors, from the source of energy, automatically, when the current exceeds a fraction of the capacity of the conductor protected; said fraction to be determined by the board of public improvements. (M. C., sec. 1123.)

Sec. 1148. Most approved devices to be used.—It shall be the duty of every person or corporation operating or maintaining conductors for electricity, to provide the most approved device to make it an easy task for the servants of the city, or of said person or corporation, to disconnect the conductor or any part of it from the source of energy, by simple operation of a handle or pulling a cord; rendering the conductor so disconnected free from any electrical pressure, tending to produce a flow of electricity from one part to another or from it to the ground; said device to be placed at or near point where conductors enter building. All such devices to be subject to the approval of the board of public improvements. (M. C., sec. 1124.)

Sec. 1149. Wires considered dangerous—when.—Any wire, cable, conductor or any machine, lamp or apparatus, through which an elec-

tric current may pass, or the influence of electricity be manifested by its various phenomena, shall be deemed dangerous, when any of the manifestations tend to delay or intimidate the fire department, or through accident their insulation be impaired or their capacity be overtaxed, or through carelessness or otherwise, they come in contact with any of the wires or electrical apparatus used in giving an alarm to the fire or police department, injuring or impairing the proper working of the same. (M. C., sec. 1125.)

Sec. 1150. Accidents—all precautions against to be taken.—It shall be the duty of every lineman or person employed to inspect, repair or erect wires or conductors, for the purpose of transmitting electrical energy in the city, to take every precaution possible, that the space between the wires or conductors erected by them and all other wires and electrical apparatus shall be sufficient to prevent accidental contact between them in the severest storm; or report the fact that such is impracticable at the office of the supervisor of city lighting. (M. C., sec. 1126.)

Sec. 1151. Dead wires—notice to remove.—Notice shall be served in writing directed to the person or persons, corporation or association operating or owning plant, and five days shall be allowed for the removal of any or all uncared-for or dead wires, described therein, before the supervisor of city lighting or any of the authorized inspectors of the city lighting department remove the same, unless the said dead or uncared-for wires are at that time a nuisance and an obstruction to a public place or highway or a menace to life or property. (M. C., sec. 1127.)

Sec. 1152. Penalty.—Any violation of the provisions of this article shall be deemed a misdemeanor, and the person, persons, co-partnership or corporation guilty thereof shall, on conviction, be fined in a sum not less than ten dollars, nor more than five hundred dollars, and every violation shall constitute a separate offense. (M. C., sec. 1128.)


Sec. 1153. Wires—interference with—penalty.—Any person interfering with, disarranging or breaking any of the wires, tubes, cables, lamps, lamp globes or other apparatus located on any street, alley or public place and forming part of the electric system used in lighting the streets, alleys, parks, public places or buildings of the municipality of the city, or preventing the employes of the company contracting to do the lighting or the inspectors of the city lighting department, from properly performing their respective duties, and thus impairing the proper lighting of the city, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than one hundred dollars. (M. C., sec. 1129.)

Sec. 1154. Conveyance to be furnished by supervisor.—The supervisor of city lighting shall furnish his own conveyance, to consist of a horse and buggy, and shall receive therefor compensation at the rate of twenty dollars per month. (M. C., sec. 1130.)

Sec. 1155. Control of board of public improvements.—The supervisor of city lighting shall be under the control of the board of public improvements, and said board shall have power to remove him at its pleasure. The above appointments shall not be made until the public service demands the same. (M. C., sec. 1131.)

ARTICLE VIII.

OF CITY LIGHTING AND MUNICIPAL LIGHTING PLANTS.*

 Sec. 1156. **B. P. I. to light designated streets and public places.**—The board of public improvements is hereby authorized and directed to light, after January first, nineteen hundred, such of the streets, avenues, sidewalks, alleys, wharves and public grounds and squares of the City of St. Louis, and parts thereof, as are designated in ordinance number 19892. (Ord. 19892, sec. 1; M. C., p. 991.)

Sec. 8 of Ord. 19892 designates specifically the streets, avenues, sidewalks, alleys, wharves and public grounds and squares of the city and parts thereof to be lighted but it is deemed unnecessary to set them out in detail in the general ordinances. An ordinance for temporary lighting (No. 19913) was enacted to tide over the interim until the foregoing went into effect.

Sec. 1157. **Duration of light—cost of additional lighting.**—The lighting therein [above] authorized shall be from fifteen minutes after sunset until thirty minutes before sunrise every day in the year. The contracts shall provide that any lighting of additional streets, avenues, sidewalks, alleys, wharves and public grounds and squares that may be authorized by ordinance during the life of the contracts shall be done by the contractors at the same rates of compensation as the lighting herein authorized. (*Ib.*, sec. 2.)

Sec. 1158. **Streets in designated district to be lighted with arc electric lamps—incandescent electric lamps—where placed.**—Within the following bounded district the lighting of the streets and avenues shall be done with arc electric lamps and the alleys, wharves, public grounds and squares shall be lighted by incandescent electric lamps, the said district so to be lighted being bounded as follows:

Commencing at the Mississippi river where intersected by the north line of Bremen avenue; thence westwardly along the north line of Bremen avenue to the west line of Ninth street; thence southwardly along the western line of Ninth street to the north line of Tyler street; thence westwardly along the north line of Tyler street to the west line of Thirteenth street; thence southwardly along the western line of Thirteenth street to the north line of Cass avenue; thence westwardly along the north line of Cass avenue to the west line of Jefferson avenue; thence southwardly along the west line of Jefferson avenue to the south line of Chouteau avenue; thence eastwardly along the south line of Chouteau avenue to the west line of Seventh street; thence southwardly along the west line of Seventh street to the south line of Arsenal street; thence eastwardly along the south line of Arsenal street to the Mississippi river; thence northwardly along the Mississippi river to the place of beginning.

All streets, avenues, sidewalks, alleys, wharves and public grounds and squares of the City of St. Louis and parts thereof which are designated in ordinance 19892 [secs. 1156 to 1162 inclusive of Revised Code, and also sec.

*It would perhaps appear more logical and accurate to assign a separate chapter to the various ordinances on electrical contrivances, regulations and matters (especially lighting plants), contained in this and the two preceding articles of this chapter, but since those matters have in preceding revisions appeared in the chapter corresponding to this one, so that the city officials and public generally using the revisions have become familiar with such arrangement and classification, it is deemed best to retain the same under this chapter on "Highways."

8 of ordinance 19892], and not included in the district above described, shall be lighted by means of lamps with a refractory mantle made incandescent by the combustion of a hydro-carbon gas. (Ord. 19892, sec. 3.)

Sec. 1159. Character of light in said district—units of measurement — terms defined. — Each lamp with a refractory mantle made incandescent by the combustion of a hydro-carbon gas, shall emit a light of not less than sixty candle power. Each arc electric lamp used shall consume not less than four hundred and eighty watts of electrical power in the arc. Each incandescent electric lamp used shall be of not less than thirty candle power.

The units of measurement for the lighting herein authorized shall be: For lamps with a refractory mantle, made incandescent by the combustion of a hydro-carbon gas, one thousand mantle-lamp hours; for arc electric lamps, one thousand arc-lamp hours, and for incandescent electric lamps, one thousand incandescent lamp hours.

A mantle-lamp hour is hereby defined to be the continuous operation of one lamp with a refractory mantle made incandescent by the combustion of a hydro-carbon gas, at not less than sixty candle power for one hour

An arc-lamp is hereby defined to be the continuous operation of one arc electric lamp, consuming not less than four hundred and eighty watts of electrical power in the arc for one hour.

An incandescent-lamp hour is hereby defined to be the continuous operation of one incandescent electric lamp of not less than thirty-candle power for one hour.

The standard of candle power for measuring the illuminating power of lamps shall be the illumination produced by the consumption of one hundred and twenty grains of sperm per hour, from the best quality of English standard sperm candles. (*Ib.*, sec. 4.)

Sec. 1160. Separate contracts—terms—bonds.—The contract for lighting by means of lamps with a refractory mantle and the contract for lighting by means of arc or incandescent electric shall be let separately.

All contracts for doing the lighting herein [above] authorized shall be for a term of ten years. The amount of bond required for the contract for lighting with refractory mantle lamps shall be two hundred thousand dollars.

The amount of bond required for the contract for lighting with arc or incandescent electric lamps shall be one hundred thousand dollars. (*Ib.*, sec. 5.)

Sec. 1161. Payment of cost of lighting.—The cost of lighting herein [above] authorized shall be paid by the City of St. Louis out of the fund appropriated for "Street Lighting." (*Ib.*, sec. 6.)

Sec. 1162. Contract conditions for arc and incandescent electric lamps.—The contract for lighting the district described in section 1158, and required to be lighted by means of arc and incandescent electric lamps, shall contain a provision that the contractor or contractors shall have the right of furnishing electricity for light, heat or power to consumers other than the City of St. Louis located within said district, or located within the blocks immediately adjacent thereto; upon the condition, however, that said contractor or contractors before undertaking to

avail themselves of this privilege, shall first comply with all the provisions, conditions and requirements of sections 1125 and 1126, or with all of the provisions, conditions and requirements of said sections as they may at any time hereafter or from time to time, be altered or amended, or with the provisions, conditions and requirements of any other ordinance provisions that may be enacted in lieu of said sections. Said contractor or contractors shall further have the right to construct all necessary conduits for his or their use, within the boundaries of the district established and defined in ordinance number eighteen thousand six hundred eighty [R. C., sec. 1095], approved September eight, eighteen hundred ninety-six: Provided, however, that all such conduits shall be built within two years from and after the date of the contract, and none thereafter; and shall also have the right, outside of the district so established and defined in said ordinance number eighteen thousand six hundred eighty [sec. 1095], and within the district embraced in the contract, to erect poles and to string wires overhead for the distribution of electricity for light, heat or power; or in the district last referred to, may construct all necessary conduits, manholes and appurtenances for his or their use, provided that all such conduits, manholes and appurtenances shall be built within five years from the date of said contract, and none thereafter; and said contractor or contractors for the use aforesaid may place wires, tubes and cables in the conduits so constructed. (*Ib.*, sec. 7.)

Sec. 1163. Lighting of southernmost part of city.—That portion of the City of St. Louis south of the south line of Keokuk street and south of said south line produced east to the Mississippi river and west to the western city limits, shall have the said streets, avenues, sidewalks, alleys, wharves, public grounds and squares located therein lit with hydro-carbon gas, for a period from February twenty-fourth, nineteen hundred and five, to August thirty-first, nineteen hundred and ten, inclusive. (Ord. 21719, sec. 1.)

Ord. 21719, sec. 6, repealed ordinance 19915 (M. C. p. 996).

Sec. 1164. Same—contract how let and contain what.—The board of public improvements is hereby authorized and directed to advertise for bids and let a contract for the lighting of all streets, avenues, sidewalks, alleys, wharves, public grounds and squares in the City of St. Louis in the territory described in section 1163, by means of lamps having a refractory mantle made incandescent by combustion of hydro-carbon gas, for a period of time as described in said section 1163 of this article; each of the lamps herein provided for shall be lighted not later than fifteen minutes after sunset, and shall burn continuously until thirty minutes before sunrise every day in the year. (*Ib.*, sec. 2.)

Sec. 1165. Contract how awarded—deposit—bond.—Bids to be received and the contract awarded under sections 1163 to 1168 inclusive, in accordance with article eight, chapter twenty-four of the Revised Code of the City of St. Louis [R. C., secs. 1976 to 1994a inclusive], and according to the plans and specifications and form of contract on file with the president of the board of public improvements. The deposit to be made by the contractor bidding for this work is hereby fixed at twenty-five thousand dollars. The bond to be given by the successful bidder is fixed in the sum of one hundred thousand dollars. (*Ib.*, sec. 3.)

Sec. 1166. What provisions contract shall contain.—The contract entered into for lighting of the territory described in section 1163 shall contain the following provisions, to-wit: "The said party of the first

part hereby agrees to save and keep the City of St. Louis free and harmless from the payment of any and all damages, costs, expenses, royalties, patent fees, lawyer's fees, or sum or sums of money whatsoever by reason of any infringement or alleged infringement of any patent or patented devices, article, system or arrangement that may be used by said first party in the execution of this contract and these specifications; and that said party of the first part will not use any process or device which is covered by letters patent of the United States except with the consent of the patentee or his assigns." (*Ib.*, sec. 4.)

Sec. 1167. Cost how paid.—The cost of lighting that portion of the City of St. Louis as described in section 1163 of this article and herein [above] authorized, shall be paid by the City of St. Louis out of any funds annually appropriated for lighting said district. (*Ib.*, sec. 5.)

Sec. 1168. On termination of contract to be re-let.—In case of the forfeiture or other determination of any contract entered into under the authority of sections 1163 to 1170 hereof, prior to its termination by lapse of time, the board of public improvements shall have authority to let another contract for the doing of the work herein provided for during the unexpired term, in which event it shall advertise for bids therefor as provided by ordinance in force at such time or times. (*Ib.*, sec. 7.)

Sec. 1169. Municipal electric light plant to light public places and streets.—There is hereby created a fund for the erection and installation of a municipal lighting plant for the purpose of lighting the streets, alleys and public places.

Said fund shall be used for the purpose of erecting a suitable building, purchasing machinery, constructing conduits, pole lines and providing all the necessary equipments, appurtenances and attachments for the installation of complete electric light plant, and shall be expended only as when directed by ordinance. (Ord. 20959, sec. 1.)

Sec. 1170. Same — fund created.—On or before the fifteenth day of May of each year the comptroller shall have authority to transfer from municipal revenue to "fund for the erection and installation of electric light plant" the sum of one hundred and forty thousand dollars. (*Ib.*, sec. 2.)

Sec. 1171. Public buildings to be lighted by electric lamps.— The board of public improvements is hereby authorized and directed to cause the lighting by means of electric lamps made luminous by the passage of a current of electricity the following buildings, from and after the approval of the first contract by the council, to-wit: Fire engine houses and police stations north of Keokuk street and its prolongation; court house; old city hall building, while occupied and used by the city; city hospital and buildings on city hospital grounds; insane asylum and buildings on insane asylum grounds; female hospital and buildings on female hospital grounds; poorhouse and buildings on poorhouse grounds; four courts and buildings on same block; new city hall; city buildings number twenty-three hundred twenty-two Clark avenue and buildings on same lot; Forest Park buildings, including Lindell pavilion, park department stable and observatory; water department buildings, including pumping engine houses, boiler houses, coal houses, gate houses, machine shops, blacksmith shops, warehouses and office buildings at Chain of Rocks, Bissell's Point, Baden, Compton hill reservoir grounds and pipe yard at Taylor

avenue and Duncan avenue; Union market and Soulard market; street department buildings at number twenty-seven hundred thirty-two Arsenal street, number nineteen hundred eleven Wash street and number thirty-seven hundred four north Grand avenue, while occupied and used by the city; health department buildings at number thirty-five hundred sixty-four south Broadway and thirty-six hundred eighteen north Broadway, while occupied and used by the city; temporary city hospital and buildings on temporary city hospital grounds, while occupied and used by the city; harbor and wharf commissioner's office on the levee. (Ord. 19914, sec. 1; M. C., p. 995.)

Ord. 22878, enacted too late to appear in the Revised Code, repealed ord. 19914, which is Rev. Code, secs. 1171 to 1176; the new ordinance provides for the letting of contracts by the B. P. I. for furnishing electricity used in lighting the public buildings of the city. See this ordinance set out in the appendix to the Revised Code. For electric plants at New City Hall, Insane Asylum, etc., see below, secs. 1177-1178.

Sec. 1172. Duration and terms of contract.—Contracts let under authority of sections 1171 to 1176 shall be for terms of one year, provided, however, that the first contract shall be for a term beginning five days after the approval of the contract by the council, and ending August thirty-first, nineteen hundred and one. The said first contract shall provide for the furnishing of electricity and necessary lamps, fittings, wiring and their maintenance during the term of the contract, provided, however, the city shall have the right to provide its own lamps, fittings, wiring and maintain the same; subsequent contracts shall provide only for the furnishing of the electricity. (*Ib.*, sec. 2.)

Repealed by ord. 22878; see preceding note.

Sec. 1173. Separate contracts for each district.—The lighting herein authorized shall be executed under separate contracts for lighting the designated public buildings in the following districts, namely:

District number one—Bounded by the western city limits, the northern city limits, the Mississippi river and the south line of Washington avenue and said south line produced to the western city limits.

District number two—Bounded by the western city limits, the south line of Washington avenue and said south line produced to the western city limits, the Mississippi river, the south line of Keokuk street and said south line produced to the western city limits. (*Ib.*, sec. 3.)

See note to sec. 1171.

Sec. 1174. Unit of measurement.—The unit of measurement for the electricity furnished for the lighting of the public buildings herein authorized shall be one thousand watt hours. A watt hour is hereby defined to be the expenditure of one watt of electrical power for one hour. (*Ib.*, sec. 4.)

See note to sec. 1171.

Sec. 1175. Amount of bonds.—The amount of bond required under all contracts let under this ordinance shall be the full amount of the contracts. (*Ib.*, sec. 5.)

See note to sec. 1171.

Sec. 1176. Payment of cost of lighting.—The cost of the lighting herein authorized shall be paid by the City of St. Louis out of the fund annually appropriated for "Lighting public buildings." (*Ib.*, sec. 6.)

See note to sec. 1171.

Sec. 1177. Electric plant at new city hall to light certain buildings.—The board of public improvements is hereby authorized and

directed to construct an electric light plant in the basement of the New City Hall, with all necessary conduits, wiring and attachments and appurtenances for the purpose of lighting the New City Hall, Four Courts and jail, old city hall whilst occupied by the city, engine house number six and court house. (Ord. 20837.)

Sec. 1178. Same—at insane asylum to light certain buildings.—The board of public improvements is hereby authorized and directed to construct an electric light plant at the insane asylum, with all necessary pole lines, attachments and appurtenances for the purpose of lighting the insane asylum, female hospital, poorhouse and engine house number thirty-five. (Ord. 20838.)

ARTICLE IX.

OF TELEGRAPH AND TELEPHONE POLES.

Sec. 1179. Telegraph poles, etc—conditions of setting.—Any telegraph and telephone company duly incorporated according to law, doing business or desiring to do business in the city, is hereby authorized to set its poles, pins, abutments, wires and other fixtures along and across any of the public roads, streets and alleys of the city subject to the regulations hereinafter provided. (M. C., sec. 1132.)

A telegraph company is not strictly a common carrier, but the use of the streets by such a company is a public use, not inconsistent with street purposes: *State ex rel Subway Co. vs. St. Louis*, 145 Mo. 551 (overruling *State ex rel vs. Murphy*, 134 Mo. 548); *Julia Building Co. vs. Bell Tel Co.*, 88 Mo. 258; *St. Louis vs Western Union*, 149 U. S. 465, s. c. 148 U. S. 102. A company's right to place electric wires is subject to reasonable police regulations of the city: *Laclede G. L. Co. vs. Murphy*, 170 U. S. 78, affirming *State ex rel vs. Murphy*, 130 Mo. 10. But a municipal ordinance which peremptorily directs a change in the location of telephone poles, as previously permitted and occupied, can not be upheld when it is neither averred nor shown that the existing location incommodes the public, or that any good reason exists for the removal: *Hannibal vs. M. & K. Tel Co.*, 31 Mo. App. 23.

Sec. 1180. Telegraph poles—when may be set in alleys.—Whenever, in the judgment of the board of public improvements, the use of any alley for such purpose is practicable, the poles of such companies shall be placed upon and along said alley instead of upon and along the streets next adjoining and parallel thereto. Where the poles are set in any alley they shall be located as near the side lines of the alley as practicable and in such manner as not to incommode the public or the adjoining proprietors or residents. (M. C., sec. 1133.)

Sec. 1181. Size and quality of poles—location.—The poles used as herein provided shall be of sound timber, not less than five inches in diameter at the upper end, straight, shapely and of uniform size, neatly planed or shaved, and thoroughly painted with two coats of lead and oil paint of such colors as may be directed by the board of public improvements, and be supplied with iron steps commencing twelve feet from the surface of the ground and reaching to the arms supporting the wires; said wires shall be run at a height not less than twenty-five feet above the grade of the street. Whenever the poles are erected on a street, they shall be placed in all cases, when practicable, on the outer edge of the sidewalk just inside of the curbstone, and on the line dividing the lots one from the other, and in no case to be so placed as to obstruct the drainage of the streets or to interfere with or damage in any way the curbstones, trees or other public or private property on the line of the street or alley where such poles shall be erected. (M. C., sec. 1134.)

See R. C., sec. 1122, nearly the same provisions.

Sec. 1182. Proposed route to be submitted to board—paving restored.—Before any telegraph or telephone company shall erect any poles upon any street or alley they shall submit for approval to the board of public improvements the route of their proposed line or lines, stating the name of the street or streets to be occupied, or if an alley the number of the block, and as far as practicable, the location of each pole. All work of excavating, refilling and restoring the pavement shall be done under the supervision and direction of the street commissioner and to his entire satisfaction, and in all cases the pavement shall be restored as speedily as possible and to the same condition it was before. (M. C., sec. 1135.)

Sec. 1183. Board may direct alterations.—The right is hereby reserved to the board of public improvements at any time to direct any alteration in the location of said poles and also in the height at which the wires shall run; but before any such alteration is made at least five days' notice in writing shall be given to the president or local officer in charge of the company affected by the proposed alteration; and reasonable opportunity shall be afforded the representatives of such company or any citizen interested to be heard therein. But when any such alteration shall be ordered, the said company shall, within five days thereafter, commence such alterations and complete the same as soon as practicable thereafter, and upon failure so to do, it shall be deemed guilty of a misdemeanor and punished as hereinafter provided. (M. C., sec. 1136.)

Sec. 1184. Deposit to be made—penalty.—Every telegraph or telephone company doing business in this city shall keep on deposit with the treasurer the sum of fifty dollars, subject to the order of the street commissioner, to be used by him in restoring any sidewalk, gutter, street or alley pavement displaced or injured in the erection, alteration or removal of any pole of such company, when said company refuses or fails to make such restoration to the satisfaction of such commissioner. Any company failing to make such deposit within five days after commencing business, or which shall fail to make good the amount when any portion of it has been expended as herein provided, within five days after notice so to do has been sent by the street commissioner, shall be deemed guilty of a misdemeanor and punished as hereinafter provided. (M. C., sec. 1137.)

Sec. 1185. Poles—use of top cross-arms by city to be agreed to.—Any company erecting poles under the provisions of this article shall, before obtaining a permit therefor from the board of public improvements, file an agreement in the office of the city register permitting the city to occupy and use the top cross-arms of any pole erected, or which is now erected for the use of said city for telegraph purposes free of charge. (M. C., sec. 1138.)

Sec. 1186. Article construed.—Nothing contained in this article shall be so construed as to in any manner affect the right of the city in the future to prescribe any other mode of conducting such wires over or under its thoroughfares. (M. C., sec. 1139.)

Sec. 1187. Acceptance to be filed.—Every telegraph and telephone company doing business in this city shall, within five days after commencing business, file with the city register its acceptance in writing of so much of this article as relates to the use by the city of top cross-arm of the poles. (M. C., sec. 1140.)

Sec. 1188. Compensation for use of streets.—All telegraph and telephone companies which are not by ordinance taxed on their gross income for city purposes shall pay to the city for the privilege of using the streets and alleys and public places thereof, as follows: The pole lines and the wires carried thereon for each and every three hundred feet of street, alley or roadway along or across which the pole line and wires extend, the sum of two dollars per annum. For house-top wires, including those which are permitted to remain overhead by virtue of the provisions of article six of this chapter, in the following described district, to wit: Mississippi river on the east, Twenty-second street on the west, Wash street on the north and Spruce street on the south, and on all wires carried on poles belonging to others, the sum of ten cents annually for each and every wire wherever the same crosses a street or public alley, being ten cents for each and every such crossing or intersection. (M. C., sec. 1141.)

St. Louis is authorized to impose upon a telegraph company putting its poles in the streets a charge in the nature of a rental for the exclusive use of the parts so used. *St. Louis vs. W. U. Tel. Co.*, 149 U. S. 465. Such a charge is not a privilege or license tax, and whether it is reasonable is a question for the court: *St. Louis vs. W. U. Tel.* 148 U. S. 92; see also 166 U. S. 388. Imposition of a license on a company doing business exclusively within a city does not interfere with interstate commerce and is a police regulation: *Postal Tel. vs. Charleston*, 153 U. S. 692. But the city cannot fix the rates for telephone companies: See note to *R. C.*, sec. 1195, and cases there cited.

Sec. 1189. Annual statement to comptroller.—The supervisor of city lighting shall report to the comptroller on or about the first day of July each year the extent of streets, alleys and public places over and along which the pole lines and wires of each telegraph and telephone company, not paying five per centum of their gross receipts into the city treasury may be erected, as well as any and all wires on house-tops or on poles not owned by the wire owner, and the number of such crossings or intersections. (M. C., sec. 1142.)

Sec. 1190. Collector may examine officers—when.—If the license collector shall not be satisfied of the correctness of any statement so made by said officer, he shall have power to require said officer to appear before him with the books and papers of the company and submit to an examination concerning the matters aforesaid, and if it shall be ascertained to the satisfaction of the license collector on said examination, or in any other manner, that said officer has not returned the full number of poles in use, as above provided, he shall order the company to pay him forthwith the deficiency ascertained by said examination. (M. C., sec. 1143.)

Sec. 1191. Penalty for violating preceding sections.—Every violation of the provisions of the foregoing sections of this article shall constitute a misdemeanor, and the corporation, or the principal officer thereof, in St. Louis, violating the same, shall, upon conviction, be fined not less than fifty dollars nor more than five hundred dollars for each offense, and every day's refusal or neglect to pay the amount aforesaid in each year after the first day of August of said year shall constitute a separate offense. (M. C., sec. 1144.)

Sec. 1192. Privileges—conditions of bond.—No person or persons, corporation or association, doing a telephone business in the City of St. Louis shall be entitled to the privilege of using the streets, alleys and public places of said city, as provided in the preceding sections of this article, except upon the following conditions, to wit: That said person or per-

sons, corporation or association about to commence business shall file in the office of the city register, at the time that the application is made for the use of the streets or alleys, under the provisions of the preceding sections of this article, his or its written acceptance of the privileges granted by the said preceding sections of this article, and agree therein that he or it will on the first day of July and January of each year thereafter file with the comptroller of the city a statement of his or its gross receipts from his or its business arising from the telephone business for the six months next preceding such statement, which shall be sworn to by such person or persons or the president or secretary of such corporation or association; and further agree that he or it will at the time of the filing of such statement with the comptroller, pay into the city treasury two and one-half percent on the amount of such gross receipts up to the year eighteen hundred and ninety, and five per cent on the amount of such gross receipts thereafter, which amount shall be in addition to all other taxes imposed by law, and such person or persons, corporation or association shall, at the time of filing such acceptance, also file with the city register his or its penal bond in the sum of twenty thousand dollars, with two or more good and sufficient securities, to be approved by the mayor and council, conditioned that he or it does comply with all the provisions of this article and of all ordinances which may hereafter be passed relating to telephone companies and will pay into the city treasury the percentage upon its gross receipts, as provided by this section. (M. C., sec. 1145.)

Sec. 1193. Comptroller may examine books and papers.—If the comptroller shall not be satisfied of the correctness of any statement made as required in the preceding section he shall have power to require any of the parties making such statement to make to him an exhibit of the books and papers of such party, and he may make an examination thereof, and if it shall appear from such books and papers, or if in any other manner he shall have satisfactory proof thereof that the gross receipts of such party during the time specified in such statement, were greater than the amount so returned in such statement, then the said party notwithstanding such statement, shall pay into the city treasury the percentage as provided in section eleven hundred and ninety-two upon such excess. (M. C., sec. 1146.)

Sec. 1194. Penalty for violating two preceding sections.—Any person or persons, corporation or association, doing a telephone business in the City of St. Louis, or any president, manager, superintendent or local officer in charge thereof, who shall violate or fail to comply with any of the provisions of the next two preceding sections of this article, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars for each offense; and each and every day's refusal or neglect to pay the amount due for any six months, as provided in the preceding section of this article, within ten days after the same becomes due and payable, shall constitute a separate offense. (M. C., sec. 1147.)

Sec. 1195. Reservation of rights.—The city reserves the right to fix the rates and charges for the use of telephones and to alter, amend or repeal the next three preceding sections at any time. (M. C., sec. 1148.)

Where there is no reservation in the contract, an ordinance of a city attempting to fix telephone rates is void as beyond municipal functions: *State ex rel vs. Telephone Co.*, 189 Mo. 83; the right to regulate the rates of telephone companies does not exist under the St. Louis Charter: 96 Mo. 623; and even an express charter provision (in Kansas City charter) was held void because the fixing of telephone charges is not a municipal function: *State ex rel vs. Telephone Co.*, 189 Mo. 83.

ARTICLE X.

OF GARBAGE DISPOSAL.*

*See in connection herewith Chap. XI, Art. 13, secs. 685-693; and also R. C., secs. 607, 614 and 688, relating to garbage and offal. The provisions for the disposal of garbage and slops were, prior to the passage of ordinance 21416, included in the duties of the Health Department (Mun. Code secs. 675 *et seq.*) But it was held in the case of *State vs. Butler*, 178 Mo. 272, that under the St. Louis Charter the authority could not be conferred by ordinance upon the Board of Health to contract for the disposal of garbage (which was "public work" and under the jurisdiction of the B. P. I.), and that such ordinances were void; thereafter this subject was transferred by ordinance No. 21416 from the health department to the street department, the B. P. I. to let the contracts. Ord. 21417 repealed Ord. 20476, and provided for an emergency contract with the St. Louis Sanitary Co. for the disposal of garbage and dead animals up to Nov. 14, 1904 (said company having had the prior contract under the void ordinance, which contract was declared canceled by the latter one); Ord. 21418 and 21419 provided for the relief of Excelsior Hauling Co. and St. Louis Sanitary Co., both of which had been under contract with the city, and was in compromise of their claims. Ord. 21420 provided for the purchase by the mayor and comptroller of certain realty (part of the garbage plant) and repealed secs 674-703 of the M. C. Ord. 21608 authorized the street commissioner to appoint employes in the garbage division, etc., Ord. 21609 authorized the purchase by the city of the hauling plant formerly owned by Excelsior Hauling Co.; and Ord. 21568 authorized the erection for the garbage division of the brick houses at Vandeventer avenue and Forest Park boulevard.

Sec. 1196. B. P. I. to contract for disposal of garbage.—The board of public improvements is hereby authorized and directed to provide by contract for the disposal of garbage of the City of St. Louis, by removal thereof not less than five miles outside of the corporate limits of the City of St. Louis. (Ord. 21416, sec. 1.)

The B. P. I. and not the board of health should let the contract: *State vs. Butler*, 178 Mo. 272.

Sec. 1197. Contract to run fifteen years.—The term of said contract shall be for a term of fifteen years from date of approval thereof by the city council and shall become operative at the date designated by the board of public improvements. (*Ib.*, sec. 2.)

Sec. 1198. Term "garbage" defined.—The term "garbage" shall include the refuse matter from kitchens, pantries, dining-rooms and other parts of hotels, restaurants, boarding-houses, tenement houses, dwelling houses, the public institutions belonging to the City of St. Louis, the State of Missouri, the United States and all other public institutions, market-houses, private hospitals and club-houses, the animal refuse from slaughter-houses, the refuse garbage and animal matter from butcher shops, meat shops and vegetable stands, the refuse fruit and vegetables from stores and commission houses, the refuse animal matter from poultry stores, the refuse from fish stores, all dead animals, including dogs, cats, goats, sheep, fowls, horses, mules, steers, cows and bulls that may be collected from the streets, alleys, parks or from private premises in the City of St. Louis, and all animal and vegetable matter that may be delivered or caused to be delivered to the contractor by the City of St. Louis or any person or corporation therein. (*Ib.*, sec. 3.)

See R. C. sec. 685.

Sec. 1199. Contract controlled by B. P. I.—work to be under direction of street department.—Said contract shall be made in

accordance with such rules and regulations as may from time to time be approved by the board of public improvements and the work done thereunder shall be under the direction of the street department. (*Ib.*, sec. 4.)

Sec. 1200. B. P. I. to advertise for bids, etc.—It shall be the duty of the board of public improvements to advertise for bids for the disposal of said garbage within thirty days after the passage and approval of this ordinance; provided, however, that the said board shall have full power and authority to reject all bids so advertised for and submitted, if in its judgment, the interests of the city may so require, and in such event shall, in like manner as herein provided, readvertise for bids for such work. (*Ib.*, sec. 5.)

Sec. 1201. What contract to cover.—Said contract shall provide that the contractor for the disposal of garbage shall receive garbage from the city or anyone authorized by said city to deliver garbage to the contractor at such points within the City of St. Louis as may from time to time be designated by the board of public improvements. (*Ib.*, sec. 6.)

Sec. 1202. Same.—Said contract shall also provide that the contractor shall, in a manner approved by the board of public improvements, establish suitable receiving stations at points to be designated by the board of public improvements, and provide proper means of transportation from the city for all garbage that may be delivered to said contractor. (*Ib.*, sec. 7.)

Sec. 1203. Same—bond.—Said contract shall provide that the contractor shall furnish bond for fifty thousand dollars to guarantee the fulfillment of said contract. (*Ib.*, sec. 8.)

Sec. 1204. Emergency contract when authorized.—The board of public improvements is hereby authorized to enter into an emergency contract, pending the awarding of a new contract, for the disposal of said garbage in case of the failure of the contractor to fulfill the terms of said contract. (*Ib.*, sec. 9.)

Sec. 1205. Subordinates in garbage division of street department—tenure—duties.—The street commissioner is hereby authorized and empowered, with the approval of the mayor, to appoint the following subordinates, who shall hold their respective positions during the pleasure of the street commissioner, and who shall perform the duties hereinafter specified and such other duties as pertain to their respective positions and such as may be required of them by the street commissioner, to-wit: One superintendent of garbage division, four inspectors of garbage division, one first clerk and one second clerk in said division, one stable superintendent who is a thoroughly practical horseman and can perform the duties of a veterinary surgeon when required, one carpenter, one blacksmith, one wagonmaker, one harness-maker, one painter, one foreman dead animal wagons, two drivers dead animal wagons. The superintendent of garbage division shall have supervision over the work of collecting and disposal of the garbage in the City of St. Louis, as well as of the removal of dead animals. The four inspectors of garbage division shall assist the superintendent of said division in supervising the work above mentioned. The first clerk and the second clerk shall be under the directions of the superintendent of garbage division and perform such clerical duties as may be assigned to them. (Ord. 21608, sec. 1.)

Sec. 1206. Same—salaries—bonds.—The superintendent of garbage division shall receive a salary of two hundred dollars per month, and shall file a bond in the sum of five thousand dollars, to be approved by the mayor and council; the four inspectors of garbage division shall each receive a salary of one hundred dollars per month; the first clerk in the aforesaid division shall receive a salary of one hundred dollars per month, and give a bond in the sum of two thousand dollars, to be approved by the mayor and council; the second clerk in the same division shall receive a salary of seventy-five dollars per month; the stable superintendent shall receive a salary of two hundred dollars per month, and shall file a bond in the sum of five thousand dollars, to be approved by the mayor and council; the carpenter shall receive a salary of ninety dollars per month; the blacksmith shall receive a salary of seventy-five dollars per month; the wagon-maker shall receive a salary of seventy-five dollars per month; the harness-maker shall receive a salary of seventy-five dollars per month; the painter shall receive a salary of sixty dollars per month; the foreman of dead animal wagons shall receive a salary of seventy-five dollars per month; the two drivers of dead animal wagons shall each receive a salary of sixty dollars per month. (*Ib.*, sec. 2.)

Sec. 1207. Same—additional employes — tenure—salaries.—In addition to the employes hereinbefore authorized the street commissioner, with the approval of the mayor, may appoint such drivers for garbage wagons, drivers of mud wagons, stablemen and blacksmith helpers as may be required for the efficient working of the garbage division, and who shall hold their respective positions during the pleasure of the street commissioner. The salaries of the employes authorized to be appointed by this section shall be as follows: Drivers for garbage wagons shall each receive a salary of fifty dollars per month; stablemen shall each receive a salary of fifty dollars per month; blacksmith helpers shall each receive a salary of fifty dollars per month. (*Ib.*, sec. 3.)

ARTICLE XI.

OF OFFENSES CONNECTED WITH HIGHWAYS.*

*For offenses against public safety (fast driving, automobiles, etc.), see R. C. secs. 1551 *et. seq.* (Ch. 18, Art. 3). For violations of ordinances respecting shade trees, city forestry department, etc., see R. C. secs. 1258, 1259.

Sec. 1208. Barbed wire fences prohibited.—It shall be unlawful for any person, or persons, company, or companies, corporation, or corporations to erect, construct or hereafter maintain, or use any fence composed, in whole or in part, of barbed wire, upon any street having an improved sidewalk parallel therewith and adjacent thereto, within the limits of the city. (M. C., sec. 1149.)

Sec. 1209. Same—penalty.—Any person or persons, company or companies, corporation or corporations, violating the provisions of section 1208, after being duly notified by the police in writing to remove same within ninety days, shall be deemed guilty of a misdemeanor, and shall be fined not less than five dollars nor more than one hundred dollars for each and every offense, and each day such fence shall be used or maintained after July eleven, eighteen hundred and ninety-three shall constitute a separate offense. (M. C., sec. 1150.)

Sec. 1210. Driving on sidewalks or hitching to trees.—Whoever shall, in this city, lead, drive or place any beast of burden or

vehicle on any paved sidewalk or footway, otherwise than going into or out of any premises owned or occupied by him or his employer, and shall hitch or fasten any animal to a hydrant, or to any ornamental or shade tree, or lamp-post, shall be deemed guilty of a misdemeanor. (M. C., sec. 1151.)

Sec. 1211. Excavation for public work to be protected.—Any citizen or contractor for public work, who shall make an excavation in any highway or thoroughfare, and shall not cause poles or timbers, raised at least three feet above the ground, to be so placed as to prevent persons, animals or vehicles from falling into the said excavation, shall be deemed guilty of a misdemeanor. (M. C., sec. 1152.)

Sec. 1212. Vaults to be covered.—Whoever shall in this city, dig or cause to be dug, in any highway, thoroughfare or sidewalk, a vault, and shall not arch or cover the same over, and secure the grating or covering of the opening thereof, in such manner as to prevent persons, animals and vehicles from falling therein, shall be deemed guilty of a misdemeanor. (M. C., sec. 1153.)

Sec. 1213. Openings in sidewalks—how fitted.—Any opening in a paved sidewalk leading into an area or vault beneath, or into a cellar, shall be fitted with wood or iron cover or grating, set in flagging even with the surface of the sidewalk, and said cover or grating shall have no lock, hinge nor any fastening projecting above the sidewalk, and shall be secured in such manner as to prevent accident to any one passing over it. Any person who shall fail to comply with the provisions of this section, or who shall leave an opening in a sidewalk uncovered, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars, nor more than one hundred dollars. (M. C., sec. 1154.)

Sec. 1214. Cellar doors and gratings to be kept closed.—Whoever in this city shall keep or leave open any cellar door, or grating of any vault on any highway, thoroughfare or sidewalk, or shall suffer any such door or grating belonging to premises occupied by him, to be in an insecure position [condition], whereby passengers may be in danger of falling into a cellar or vault, shall be deemed guilty of a misdemeanor. (M. C., sec. 1155.)

See case for personal injury sustained by being precipitated into a cellar through an open cellar door: *Fehlhauer vs. St. Louis*, 178 Mo. 635, holding that cellar doors are not nuisances *per se*.

Sec. 1215. Down pipes—how constructed.—Every person owning or occupying any building in this city shall cause the pipes conducting the water from the eaves of the building to be so constructed as not to spread the water over the sidewalks. Any person violating the provisions of this section, shall be deemed guilty of a misdemeanor. (M. C., sec. 1156.)

Sec. 1216. Regulations as to signs, projections over sidewalks, obstructions, merchandise on walk, etc.—misdemeanor—exceptions.—Whoever shall in this city set up, or cause to be set up, or who shall hereafter in this city maintain any sign, sign box, illuminated sign, lettered lamp, or other fixture which shall extend over or upon any sidewalk more than eighteen inches from the building line or inside of said sidewalk, and whoever shall suspend any merchandise or other article in front of any house more than eighteen inches from the wall thereof, if less

than eight feet above the pavement, or more than two feet from the wall at any height above the pavement, and whoever shall place or throw, or cause to be placed or thrown, upon any street, highway, thoroughfare, sidewalk or other public place any article whatever, so as to obstruct or otherwise encumber the same, or shall, upon any such place, expose or offer any merchandise or other property for show or sale by auction or otherwise, shall be deemed guilty of a misdemeanor: Provided, that nothing in this section shall be so construed as to prevent merchants or manufacturers from occupying with their wares eighteen inches of the inside of the sidewalk, where said sidewalk is eight feet or less in width, twenty inches if over eight feet and less than ten feet in width, and two feet if the sidewalk is ten feet or over in width. Nor shall this section be so construed as to prevent merchants from occupying a greater space on the sidewalk when receiving or shipping goods, if said goods are not permitted to remain on such sidewalk more than eight hours, and at least one-half of the sidewalk is at all times kept clear for the use of pedestrians or passage; and, provided, further, that nothing in this section shall be construed as applying to movable awnings made of cloth or canvas, which, when lowered, shall not be less than seven and one-half feet, in the clear, above the sidewalk. (Ord. 20529.)

Amending sec. 1157 of Mun. C. But this section seems not entirely harmonious in some particulars with Rev. C. sec. 121. Sec. 1157 of Mun. Code (now replaced by sec. 1216 Rev. C.), was before the supreme court for consideration to some extent in the case of *Loth vs. Columbia Theatre Co.*, 197 Mo. 328, 350, a case of damages for personal injuries against the theatre company and the city because of the fall of a large sign from above upon a pedestrian.

As to temporary obstruction of sidewalk for highway, and to what extent lawful see note to Rev. Code sec. 928.

Sec. 1217. Fruit stands, etc.—regulations concerning.—The occupation of any portion of any street, avenue, alley or sidewalk with any stand (in the common acceptance of the term fruit stand), table, shelving, wagon or cart for the purpose of selling or offering for sale any fruits, candies, nuts or other merchandise, when such occupation interferes with or obstructs the passage of any vehicle, is hereby prohibited (and in no case shall there be more than four peddlers or hawkers vending their goods in any one block, except at market places, nor shall more than two occupy the same side of the street). Any person who may violate the provisions of this section, shall be deemed guilty of a misdemeanor, and shall be fined not less than two dollars, nor more than five dollars; provided, that this section shall not be so construed as to prevent persons dealing in fruits, candies, nuts, and other merchandise, and who rent stores, cellars or other portions of buildings, from occupying the walls of their respective stores or buildings and the sidewalks upon which they front in the same manner, and to the same extent as other merchants are permitted to do by law, and subject only to the restrictions and provisions contained in the preceding section; provided, this section shall not apply to book, newspaper or fruit stands located on any sidewalk and against the outside wall of any building, upon the following conditions: First, that the sidewalk shall not be occupied to a greater extent than merchants are allowed to occupy with their merchandise; second, that they shall only be permitted at such places where the occupants of the store consent thereto; third, that the owners of said book, newspaper or fruit stands shall pay a merchant's tax and license therefor. (M. C., sec. 1158.)

Sec. 1218. Throwing fruit on sidewalks forbidden.—Any person who shall throw or place upon any sidewalk or cross-walk, any part

of fruit or vegetable or other substance, which, when stepped upon by any person, is liable to cause him or her to slip or fall, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than one dollar, or more than twenty-five dollars. (M. C., sec. 1159.)

Sec. 1219. **Sections to be posted in fruit stores.**—The proprietor or keeper of any store, stand or other place where fruit, vegetables, or other substances mentioned in the foregoing section are sold, shall keep a copy of this and the next preceding and the next succeeding sections suspended or posted in a conspicuous place on his or her premises, failing in which, he shall be punished by a fine of not less than five dollars nor more than ten dollars. (M. C., sec. 1160.)

Sec. 1220. **Hoisting of merchandise, etc., over thoroughfare forbidden.**—Any person in this city who shall hoist, lower or let down on the outside of any building, over any thoroughfare, any merchandise, grain, or building or other material or article, shall be deemed guilty of a misdemeanor. (M. C., sec. 1161.)

Sec. 1221. **Injuring public property a misdemeanor.**—Any person who shall in this city wilfully cut, hack or otherwise injure any awning post, sign, fire plug, hydrant, ornamental or shade trees, railing, fence or other inclosure, or any property belonging to the city, shall be deemed guilty of a misdemeanor. (M. C., sec. 1162.)

Sec. 1222. **Coal or firewood not to be thrown on sidewalks.**—Any person who shall in this city cast, throw or place upon any paved sidewalk any stone, coal or firewood, or shall saw, or permit to be sawed, any firewood, upon such sidewalk, shall be deemed guilty of a misdemeanor. (M. C., sec. 1163.)

Sec. 1223. **Obstruction of highways with vehicles forbidden.**—If any wagoner, carter, drayman or the driver of any carriage, sleigh, sledge, buggy, furniture car, or any other vehicle for pleasure or burden, shall stop or place any such cart, wagon, dray, carriage, sleigh, sledge, buggy, furniture car, or other vehicle for pleasure or burden, in any street, lane or public alley, or near the intersection of any street, lane or public alley, or across the crossing or footway along or across such lane, street or public alley, he shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be fined not less than ten nor more than five hundred dollars. (M. C., sec. 1164.)

Sec. 1224. **Unauthorized obstruction and excavations forbidden.**—Any person who shall, himself, or by another, place upon any highway or other public place any obstruction not authorized by ordinance, or make any excavation in such place without lawful authority, or displace or remove any stones, stakes or other landmarks placed by any officer of this city, under authority thereof, or injure or deface any property shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than ten dollars nor more than five hundred dollars. (M. C., sec. 1165.)

Any encroachment upon any part of a highway, whether on the traveled part thereof or on the sides comes clearly within the idea of a nuisance; *State vs. Campbell*, 80 Mo. App. 110, 113. See note at beginning of Art. 12, Chap. XL, and cases there cited.

Sec. 1225. **Penalty for spilling articles on streets from wagons, etc.**—Any person who shall drive over or along any street or

highway in St. Louis, any wagon or other vehicle containing dirt, earth, clay, stone, macadam, brick, wood or any material used in the construction of streets or buildings, or containing coal, garbage or other refuse, which said wagon or vehicle shall be so constructed or loaded that any portion of the contents thereof shall drop, be spilled or thrown on such street or highway, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than ten nor more than twenty-five dollars. And the hauling of each and every load from which any portion of the contents shall drop or be spilled or thrown as aforesaid shall constitute a separate offense. (M. C., sec. 1166.)

Sec. 1226. Duty of police.—It shall be the duty of the police in their respective districts to enforce the provisions of the next preceding section and to arrest any person found violating the same. And it shall also be their duty to promptly report to the street commissioner any and all streets or parts of streets or highways upon which any article has been placed, spilled or thrown in violation of the preceding section, or of sections 598 and 1235 of Revised Code of St. Louis. (M. C., sec. 1167.)

Sec. 1227. Who liable under section.—If the driver of any wagon or vehicle who shall violate the provisions of section 1225 shall be a person other than the one to whom the license for such wagon or vehicle shall have been issued then the person to whom such license shall have been issued shall be deemed equally guilty with such driver of a violation of the next two preceding sections, and shall be subject to the penalties provided herein. (M. C., sec. 1168.)

Sec. 1228. Asphalt and bituminous macadam paving protected against liquids.—No person shall pour or spill, or permit to drip upon any asphalt or bituminous macadam pavement laid on any street or alley or public place in the City of St. Louis, any kerosene, benzine, gasoline or other similar oil or oily substance or liquid, or salt or salt water. (Ord. 21233, sec. 1.)

Sec. 1229. Same—regulations as to oil wagons and tanks—oil receptacles.—All oil delivery wagons or tanks shall have securely fastened under the taps or faucets thereunto attached, an absolutely oil or water-tight zinc-lined box or tray, and in filling any measure or other vessel from said taps or faucets, such measures or other vessels must be held so that any drip or overflow shall flow into said box or tray; and in removing the same from over the asphalt or bituminous macadam pavement, no drip or overflow from such measure or other vessel must be permitted to fall upon such pavement, and no receptacle for holding oil shall be placed on the asphalt or bituminous macadam pavement. (*Ib.*, sec. 2.)

Sec. 1230. Same—regulations as to vehicles using oils.—All automobiles and auto-cycles and all other vehicles using kerosene, benzine, gasoline or other similar oils, shall be provided with a pan or pans or other efficient receptacles so that no drip or overflow shall fall upon the asphalt or bituminous macadam pavement. (*Ib.*, sec. 3.)

Sec. 1231. Same—ice cream wagons.—All wagons delivering or hauling or handling ice cream shall haul away and not deposit or throw upon any asphalt or bituminous macadam pavement any salt water or salt, nor shall they deposit upon such pavement any receptacles which contains salt or salt water. (*Ib.*, sec. 4.)

Sec. 1232. Same—misdemeanor—penalty.—Any violation of or failure to comply with the provisions of the preceding four sections shall be punished by a fine of not less than five dollars and costs, nor to exceed one hundred dollars and costs. (*Ib.*, sec. 5.)

Sec. 1233. Same—duty of license collector.—It shall be the duty of the license collector to refuse to issue a license for oil delivery wagons, tanks, automobiles, auto-cycles and other vehicles using or transporting kerosene, benzine, gasoline or other similar oils, unless the provisions of sections 1228 to 1231 inclusive are complied with. (*Ib.*, sec. 6.)

Sec. 1234. Sidewalks and gutters to be kept clean—snow and ice—several tenants—penalty.—The owners or agents or occupiers of premises or tenants or vacant lots owned by them, under their charge or occupied by them, shall keep the sidewalks and gutters in front of and adjoining the property owned, controlled or occupied by them swept and clear of mud, dirt and filth, and also all the private alleys in the rear of or adjoining property owned, controlled or occupied by them clean to the center of the alley, and after any fall of snow said owners, managers, agents or occupiers shall cause the snow to be immediately removed from the sidewalk fronting or adjoining the property owned, managed or occupied by them into the carriageway of the street. Where houses are occupied by several tenants, it shall be the duty of the person or persons occupying the tenement or tenements nearest the street to comply with the requirements of this section. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than five nor more than twenty dollars. (M. C., sec. 1169.)

See Charter Art. III, sec. 26, clause 9. The right of the city to require owners of property to remove snow and ice from their sidewalks is a valid exercise of the police power, but the city cannot create a private right of action for its violation in favor of another private individual injured thereby; *Norton vs. St. Louis*, 97 Mo. 537; *St. Louis vs. Ins. Co.*, 107 Mo. 92; see also *Jackson vs. Railroad*, 157 Mo. 621, 638; *Sluder vs. Transit Co.*, 189 Mo. 107, loc. cit. 133, 152, 154, *et seq.*; see also *Ford vs. Kansas City*, 181 Mo. 137, 148. The city cannot recover against such abutting owner for damages it was compelled to pay to one injured because of snow and ice: *St. Louis vs. Ins. Co. supra*. As to violation of ordinances furnishing basis for cause of action to private persons see notations to Rev. Code sec. 1864.

Sec. 1235. Articles not to be thrown and swept on streets, etc.—painting advertising matter on sidewalk forbidden—penalty.—No person shall throw, or cause to be thrown, or permit any one in his or her employ to throw into any public highway, thoroughfare, street or other public place, any kind of telegraph or telephone wires, or wire used for baling hay, straw or other material or any ashes, or animal, vegetable or any substance whatever, or any kind of advertising matter, or to distribute or cause to be distributed or permit any one in his or her employ to distribute, any kind of advertising matter so that it shall litter the public highways, thoroughfares, streets, sidewalks or other public places, or any of them, or to paint or cause to be painted or permit any one in his or her employ to paint, any kind of advertising matter sign or signs on any sidewalk, and no person shall sweep or cause to be swept, or permit any one in his or her employ to sweep, from any store, office, warehouse, manufactory, hotel, or any other building occupied in the whole or in part for business, any refuse or dirt from the floors of said establishments, or any of them, on to the public highways, thoroughfares, streets, sidewalks or other public places of the City of St. Louis. Any person violating any of the pro-

visions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars for each and every offense. (M. C., sec. 1170.)

See R. C. 1226, which makes it the duty of the police to report to the street commissioner cases where the streets are littered up by articles thrown thereon, etc.

Sec. 1236. Penalty for injuring lamp posts, etc.—Any person who shall wilfully or maliciously or negligently injure, pull down or break any lamp post, bracket or gas lamp or telegraph post or telegraph wire or wires, or wire or wires connected with the fire and police telegraph within the city, or shall carry away, diminish or reduce the oil, gasoline, naphtha or gas supplied to any public lamp or light or shall extinguish any such light or turn off wholly or partly the supply of oil, naphtha or gas from such light, or shall injure, break, deface or daub any mantle, globe or shade, or shall screen or otherwise obscure any public light, lamp, globe or street sign, shall be guilty of a misdemeanor, and upon conviction thereof be fined not less than five nor more than three hundred dollars. (Ord. 20245, amending M. C., sec. 1171.)

Sec. 1237. Danger signals—penalty for breaking, etc.—Any unauthorized person who shall remove, break or extinguish any lantern or danger signal, which has been placed on any street or alley to protect persons against accidents, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars, nor more than fifty dollars. (M. C., sec. 1172.)

Sec. 1238. Holes, etc., to be fenced.—All holes, depressions, excavations or other dangerous places within the city that are below the natural or artificial grades of the surrounding or adjacent street, shall be properly inclosed with fences or walls, or be filled up so as to prevent persons and animals from falling into them. (M. C., sec. 1173.)

Sec. 1239. Street commissioner—notice to be given by.—The street commissioner shall notify the owners or occupants of premises on which such dangerous places exist, to cause fences or walls to be built around them, or to cause the same to be filled up, within such period as he shall deem the exigencies of the case may require. In case of failure to comply by any of the owners or occupants of said premises, after the notification above required has been given, then they shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined before the police court not less than ten, nor exceeding five hundred dollars. (M. C., sec. 1174.)

Sec. 1240. Street commissioner—when to fence dangerous places.—Whenever the said owner or occupant cannot be found, then the street commissioner shall cause such dangerous places to be fenced in. (M. C., sec. 1175.)

Sec. 1241. To what account expenses charged.—The expense which the street commissioner may incur in doing the work above mentioned shall be charged to and paid out of appropriations for streets and alleys. (M. C., sec. 1176.)

Sec. 1242. Fires on pavements prohibited.—Any person who shall make or cause to be made a fire on any pavement of any street within

the City of St. Louis, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be fined not less than fifty nor more than one hundred dollars. (M. C., sec. 1177.)

See R. C. secs. 224 and 597.

Sec. 1243. Balcony, etc.—projecting beyond building line—penalty.—Hereafter if any owner of a building or his duly authorized agent, shall construct or allow to be constructed, a landing, gallery, balcony, bay or show window, permanent platform, column, steps or any part of his building, so that it projects beyond the building line of a street, into, on or over a public sidewalk, or who shall fail to remove the same forthwith, when notified by the street commissioner, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty dollars nor more than one hundred dollars; provided, however, that nothing herein contained shall prohibit the erection of a balcony from the second floor of any house extending not more than three feet beyond the building line. (M. C., sec. 1178.)

See R. C., secs. 118 and 1092.

Sec. 1244. Gas or water stop-cock boxes—penalty for improper location of.—Whenever it shall come to the notice of the street commissioner that any gas or water stop-cock box is not located as required by ordinance or projects above the surface of any paved sidewalk, it shall be his duty to notify the persons, corporations or associations supplying gas, with respect to gas stop-cock box, and the owner or agent of the property fronting thereon with the respect to the water stop-cock box by mail, to have the same properly located, or set even with the surface, within ten days from the date thereof, and if such persons, corporations or associations supplying gas as aforesaid and the owner or agent fail to comply with such notice within the time specified, they shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten dollars nor more than fifty dollars. (M. C., sec. 1179.)

Sec. 1245. Trundling wheelbarrows on sidewalks prohibited.—No person, otherwise than in passing in and out of his premises, shall trundle any wheel or hand-barrow, or hand-cart, upon any paved sidewalk. Any person violating the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars nor more than twenty dollars. (M. C., sec. 1180.)

Sec. 1246. Penalty for violating chapter.—Any person who shall violate any of the provisions of this chapter for the violation of which no specific penalty is provided shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than ten dollars, nor more than five hundred dollars. (M. C., sec. 1184.)

ARTICLE XII.

OF CITY FORESTER.

Sec. 1247. City forester's office.—There is hereby created in the street department the office of city forester. (Ord. 22368, sec. 1.)

Sec. 1248. Same—appointment—tenure.—The city forester shall be appointed by the mayor and approved by the council. He shall hold of-

fice for four years and until his successor shall have been duly appointed and qualified. No appointment shall take effect under this article until the first Tuesday in April, 1906, and the term of office of the first appointee as city forester shall terminate the third Tuesday in April, 1907. (*Ib.* sec. 2.)

Sec. 1249. Qualifications—The city forester shall be a man skilled and learned in the science of forestry and shall have had not less than three years' practical experience in the care of park or street trees. No person shall be appointed to the office of city forester, unless he be a registered voter of the City of St. Louis and a resident of St. Louis for at least two years prior to his appointment. (*Ib.*, secs. 3, 15.)

Sec. 1250. Duties of forester in general.—It shall be the duty of the city forester to superintend, regulate and encourage the planting, culture and preservation of shade and ornamental trees and shrubbery in the streets, alleys and public highways of said city; to direct the time and method of trimming of said trees and shrubbery; to advise the property owners regarding the kind of trees and shrubbery and method of planting deemed desirable on particular streets; and to take such measures as may be deemed necessary for the control of dangerously injurious insect pests and plant diseases which may effect trees and shrubbery on the streets, alleys and public highways of said city. He shall act in harmony with and under the direction of the street commissioner in relation to the planting, culture, removal and preservation of shade and ornamental trees and shrubbery in the streets, alleys and public highways of said city. He shall report to the city attorney all cases which come to his knowledge of violations or ordinances respecting said trees and shrubbery; and shall, when requested by the city attorney, assist in the prosecution of persons charged with the violation of such ordinances. (*Ib.*, sec. 4.)

Sec. 1251. Same—keep record.—The city forester shall keep a record of all the transactions of his office and shall, whenever the street commissioner may require, make a full and detailed report concerning said transactions. (*Ib.*, sec. 5.)

Sec. 1252. Salary and bond of forester.—The salary of the city forester shall be at the rate of twenty-four hundred dollars per year, payable in monthly installments, in full for all services. He shall give bond in the sum of five thousand dollars for the faithful performance of his duties, with not less than two good sureties, holders of unincumbered real estate in the city or any surety company, which bond shall be approved by the mayor and council. (*Ib.*, sec. 6.)

Sec. 1253. Subordinate employes in forester's department—appointment, tenure, bond, salaries.—The street commissioner may, by and with the approval of the mayor, appoint the following subordinates who shall hold their respective positions during the pleasure of the street commissioner and who shall perform the duties hereinafter specified, and such other duties as pertain to their respective positions, and such as may be required of them by the street commissioner, and they shall each receive the following salaries and give the following bonds, to-wit: Assistant city forester, who shall have had at least one year's practical experience as a forester and shall receive a salary of one hundred and twenty-five dollars per month and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of twenty-five hundred dollars; one

clerk, who shall receive a salary of seventy-five dollars per month, and three day inspectors, who shall receive two dollars and fifty cents per day. In addition to the officers herein specified, the street commissioner shall, by and with the approval of the mayor, employ such teams, carts and day laborers as may be required for the sufficient working of his department. (*Ib.*, sec. 7.)

Sec. 1254. How property owners may select shade trees.—It shall be lawful for the property holders on any three or more contiguous blocks of any street, or a majority of them, to select by petition, any variety of shade tree, approved by the city forester, which shall thereafter be the only kind of shade tree to be planted on said blocks. (*Ib.*, sec. 8.)

Sec. 1255. When shade trees selected by forester.—If the property holders along any given street, upon due notice so to do from the city forester, shall fail to make the selection provided for by section 1254 hereof, within six months next after notice have been given, then it shall be the duty of the city forester to select a variety of shade tree for such street or blocks of such street which shall thereafter be the only variety which shall be planted on said street or blocks of said street. (*Ib.*, sec. 9.)

Sec. 1256. Acts respecting shade trees without forester's permission misdemeanor.—Whoever shall, without written permit from the city forester, plant or set, pull up, cut down, burn, destroy, remove, trim, or in any manner injure any tree or shrub standing in any street, alley or public highway, shall be guilty of a misdemeanor. (*Ib.*, sec. 10.)

As to right of property owner to plant shade trees, see also R. C. sec. 916.

Sec. 1257. Same—interfering with roots of trees, etc., misdemeanor—exception.—Whoever shall, without written permit from the city forester, hereafter place any stone, cement, or other substance about any tree in any street, alley or public highway, which shall impede the free entrance of water and air to the roots of such tree, without leaving an open space of ground about the trunk of said tree of not less than four square feet, shall be guilty of a misdemeanor; provided that this section shall not apply to work done by the city or under contract with the city on any street, alley or public highway. (*Ib.*, sec. 11.)

Sec. 1258. Interference with forestry department—misdemeanor.—Whoever shall prevent, delay, or in any way interfere with the city forester or his employes in the planting, trimming, spraying or removal of any tree in any street, alley or public highway, or in the removal of any stone, cement, or other material from about the trunk of any such trees, shall be guilty of a misdemeanor. (*Ib.*, sec. 12.)

Sec. 1259. Violating article—penalty—duty of police.—Whoever shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, be fined not less than five nor more than fifty dollars, and, it is hereby made the special duty of the police to enforce the provisions of sections 1256, 1257 and 1258 of this article, and, with that in view, the board of police commissioners are requested to deliver a copy of this article to every police officer in their department. (*Ib.*, sec. 13.)

Sec. 1260. Article does not apply to private property.—The provisions of this article shall not apply to trees or shrubbery planted on private property. (*Ib.*, sec. 14.)

CHAPTER 13.

JUDICIAL DEPARTMENT.

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| ART. | I. | Of police courts of first and second districts. |
| | II. | Of police court south of Arsenal street. |
| | III. | Of justices of the peace. |
| | IV. | Of marshal. |
| | V. | Of jury commissioner. |
| | VI. | Of compensation of jurors. |
| | VII. | Of probate court. |
| | VIII. | Of juvenile court.* |

ARTICLE I.

OF POLICE COURTS OF FIRST AND SECOND DISTRICTS.

Sec. 1261. **Judicial districts, boundaries.**—The city is hereby divided into two judicial districts, as follows: All that portion of the city lying south of the following described line, to-wit: Commencing at a point in the middle of the main channel of the Mississippi river, where the continuation of the center line of Washington avenue would intersect said main channel; thence westwardly along the center line of Washington avenue to Grand avenue; thence north on Grand avenue to McClure avenue; thence west on McClure avenue to its intersection with the Olive street road; thence westwardly along the Olive street road to the western city limits, shall constitute the first judicial district, and all that portion of the city lying north of said line shall constitute the second judicial district. (M. C., sec. 1185.)

Charter provisions, Art. IV., secs. 25 to 27 Assembly may increase number of justices and districts, Charter, Art. IV., sec. 27, in pursuance of which authority the police court south of Arsenal street was created (see next article).

Sec. 1262. **Police courts established—how conducted—police justices.**—There shall be in each of said districts a court which shall be called respectively the first district police court, and the second district police court, each to be held by a police justice, but when the justice of any such court is disabled or disqualified by absence, sickness or otherwise, then by any justice of the peace, for the city, to be designated by the mayor, who shall, for the time being, possess all the powers and perform all the duties which are enjoined upon police justices by law and ordinances, and the acts of said justice, officiating for a police justice, shall have the same legal sanction and force as though performed by the police justice in person, and for the service rendered by the person officiating in the stead of a police justice, he shall be allowed the same salary pro rata, as the police justice would be entitled to. In case a police justice should be absent by reason of sickness, the salary of the person officiating in his stead shall be made chargeable to appropriations for salaries, otherwise it shall be deducted from the salary of the police justice whose place shall have been filled by such justice of the peace, and it is hereby made the duty of the clerk of the police

*For statutes relating to the Juvenile Court, see "Laws Specially Applicable to St. Louis," *ante* page 118 to 121, Chap. 5, Art. 7, secs. 205 to 226. Ordinance 22540, approved July 12, 1906 (too late to appear in the Rev. Code, but set out in the appendix hereto) provides for the juvenile court building and the operation of the court, city officers connected therewith, etc.

court to certify to the auditor the length of time any person officiating as aforesaid shall have served, whereupon the auditor shall issue his warrant accordingly. (M. C., sec. 1186.)

The city has authority under its charter powers to establish police courts: *Ex Parte Kiburg*, 10 Mo. App 442. Police justices are appointed for a definite term and can only be removed for cause upon proper charges, after due hearing: *State ex rel vs. St. Louis*, 90 Mo. 19.

Sec. 1263. Location of the first and second district courts.—The said first district Police Court shall be held in the old city hall building, located on Eleventh street between Market and Chestnut streets, and the Second district Police Court shall be held at such place as shall be designated by the mayor. (Ord. 21518 amending M. C., sec. 1187.)

Ord. 21518 also contained the following provision which is omitted from the text as being obsolete: "The first district police court, in addition to being held at the Old City Hall building, shall from the time this ordinance takes effect up to and including the thirty-first day of December, 1904, be held daily, beginning at three o'clock P. M. of each day, legal holidays excepted, at the Mounted District Police Station, located in Forest Park, or such other place in the vicinity of the World's Fair Grounds as shall be designated by the Mayor."

Sec. 1264. Jurisdiction.—The police justices, or any acting justice pro tem., shall have and exercise such powers and jurisdiction as is or may be conferred by charter or ordinance provisions. (M. C., sec. 1188.)

Charter Art. IV., secs. 25-27. See note to next section. The police court by the charter has simply power to enforce all legal orders and judgments and perform the duties and exercise the powers prescribed by ordinance, which must be in harmony with the laws of the state; an ordinance granting to the police justice authority to disbar attorneys in his court is not in harmony with the laws of Missouri and is void: *State ex rel vs. Peabody*, 63 Mo. App. 378, 381.

It is held that a civil action does not lie against judges and magistrates, or persons acting judicially within their jurisdiction; but "where a ministerial officer does an act as a judge or does a judicial act within his jurisdiction he is not civilly liable to a person injured unless it be proved that the act be wilfull and malicious;" *Albers vs. Merch. Exch.*, 138 Mo. 1. c. 164, citing numerous cases; *Pike vs. Magoun*, 44 Mo. 491. See also discussion in *Burkbarth vs. Stephens*, 117 Mo. App. 425, 431 et seq.

The police court is a court of limited jurisdiction, not proceeding according to the course of the common law and such courts must confine themselves strictly within the authority given: *St. Louis vs. Tiefel*, 42 Mo. 578, 593 (denying jurisdiction for violation of a state act).

By the Charter, jurisdiction over all cases arising from a violation of city ordinances is given to the police courts: *St. Louis vs. Pahl*, 114 Mo. 32, 34.

The power of the city granted by the charter concerning police justices does not extend to the enactment of an ordinance granting the police justice the right to disbar or suspend attorneys in his court; such ordinance is not in harmony with the laws of Missouri, which confer that right on other courts, and is void: *State ex rel vs. Peabody*, 63 Mo. App. 378.

Sec. 1265. Police courts—jurisdiction of, in suits for fines—
forfeitures and penalties—proceeding in civil action.—The said police courts shall have jurisdiction of all suits for the recovery of any fine, forfeiture or penalty imposed for the violation or breach of any ordinance, which suits and proceedings therein shall be in the nature of a civil action. (M. C., sec. 1189.)

VIOLATIONS OF ORDINANCES AND THEIR INCIDENTS.

Charter Provisions: The Charter, Art. III., sec. 26, clause *tenth*, confers upon the city authority to enact ordinances "to impose, collect and enforce fines, forfeitures and penalties for the breach of any city ordinance," and in default of paying the judgment authorizes commitment to the workhouse, etc., provided

such imprisonment does not exceed six months (no longer: *St. Louis vs. Karr*, 85 Mo. App. 608); and provides for hard labor with an allowance therefor of fifty cents per day on account of the fine and costs. (For ordinances on fines, penalties and forfeitures see Rev. Code, Ch. 18, Art. 8, secs. 1650-1653.) Art. III., sec. 26, clause *fourteenth* is the "general welfare" clause and authorizes the enforcement of ordinances "by fines and penalties, not exceeding five hundred dollars and by forfeitures not exceeding one thousand dollars." Art. IV., sec. 16, confers on the mayor authority to "remit fines, forfeitures and penalties duly imposed for violation of any ordinance." Art. XVI., sec. 12, provides for a violation of any *Charter* provision for which no punishment has been therein provided. For Workhouse ordinances see post R. C., sections 1742 *et seq.*; for House of Refuge, now Industrial School, see "Laws Applicable to St. Louis," Ch. 14, secs. 355-367, and notes; also R. C., sec. 1785. For Court Criminal Correction see "Laws Applicable to St. Louis," secs. 102-139.

Nature of the action or prosecution: The proceeding in a police court for violation of an ordinance is held to be essentially a civil action for recovery of a debt or penalty; it is governed by the rules of pleading applicable to civil cases, and not the strict rules pertaining to criminal proceedings: *St. Louis vs. Knox*, 74 Mo. 79; *St. Louis vs. Weitzel*, 130 Mo. 600, 612; *Ex parte Hollwedel*, 74 Mo. 395; *Delaney vs. Police Court*, 167 Mo. 667, 678, citing numerous cases; *Springfield vs. Ford*, 40 Mo. App. 586, 588; *In re Miller*, 44 Mo. App. 125; *In re Jones* 90 Mo. App. 318; *Cannon vs. McDaniel*, 188 Mo. 207, 228. Such a proceeding, however, while civil in form, is quasi-criminal in character. Partaking of some of the features of each, its similitude to either is not complete. In pleading it is more nearly like a civil action but in its effects and consequences it more nearly resembles a criminal proceeding: *Stevens vs. Kansas City*, 146 Mo. 460, 465 (holding that hence the criminal court and not the circuit court is the natural channel for such cases to go through to reach their ultimate appellate destination); *Douglas vs. Kansas City*, 147 Mo. 428, 436.

Such an offense, though "not criminal, is penal in its character and in derogation of common right; the ordinance must therefore be strictly construed and in order that the judgment of conviction may be upheld the proof adduced must bring the defendant clearly within its meaning," and in this respect the same rule of construction applies as in a criminal prosecution: *St. Louis vs. Robinson*, 135 Mo. 460, 470, holding that the title of the act may be looked to as a help to its construction; *Pacific vs. Seibert*, 79 Mo. 210, 215.

"Civil actions, so-called, for the recovery of fines and penalties, have always been considered as so far *quasi*-criminal in their nature, as to be excluded from the statutory provision against imprisonment in purely civil proceedings:" *Ex Parte Kiburg*, 10 Mo. App. 442, 446. So also it was said in the case *In re Larkowski*, 94 Mo. App. 623, 632, that when a youth is sentenced to the House of Refuge (now called St. L. Industrial School), instead of the Workhouse, for misdemeanor, "it is as to him a penal institution, and while confined therein on account of such conviction he is undergoing penal servitude."

Important Function of Municipal Ordinance.—The proceeding in a police court "is indispensable to the peace and well being of the inhabitants of cities, and reaches offenses which state laws are not adapted to punish": *Stevens vs. Kansas City*, 146 Mo. 460, 465. A Workhouse is conducted for the public good and imprisonment therein is only the legitimate exercise of suitable police regulations such as the city has undoubtedly the power to enact: *Ulrich vs. St. Louis*, 112 Mo. 138, 144.

Arraignment and plea are unnecessary: *Delaney vs. Police Court*, 167 Mo., loc. cit. 678, and cases there cited; *St. Louis vs. Knox*, 74 Mo. 79.

Jury Trial.—Neither the federal nor state constitution guarantees to a person charged with a violation of a mere municipal police regulation, the right of trial by jury: *Delaney vs. Police Court*, 167 Mo. 667; *Marshall vs. Standard*, 24 Mo. App. 192; *Ex Parte Kiburg*, 10 Mo. App. 442. See R. C., sec. 1286, for provision for jury.

The constitutional inhibition against imprisonment for debt does not apply to commitment to the work house on failure to pay the fine assessed for violation of a city ordinance: *Ex Parte Hollwedell*, 74 Mo. 395; *Ex Parte Kiburg*, *supra*.

Injunction.—The doctrine that criminal statutes cannot be tested or their enforcement restrained in the civil courts does not apply to municipal ordinances: *Coal Co. vs. St. Louis*, 130 Mo. 323, 330.

How entitled.—The proceeding should be in the name of the city not the state: *Ex Parte Hollwedel*, 74 Mo. 395; *St. Louis vs. Sternberg*, 69 Mo. 289, 303.

The proceeding abates upon the death of the defendant: *Carrollton vs. Rhomborg*, 78 Mo. 547.

The burden of proof rests on the city and so remains throughout the trial: *Columbia vs. Johnson*, 72 Mo. App. 232, 238; and since it has to do with the personal liberty of the citizen the guilt of the defendant should be shown beyond a reasonable doubt: *Glenwood vs. Roberts*, 59 Mo. App. 167; see also *St. Louis vs. Dorr*, 136 Mo. 370 ("nothing can be taken by indictment in such a prosecution," "the evidence must bring the case within the allegations"), 375.

But it has been held that a fair and reasonable inference from the proven facts, inconsistent with innocence, is sufficient to convict, though there be no direct testimony: *St. Louis vs. Wiley*, 8 Mo. App. 597.

Intent only without some overt act cannot be made a misdemeanor by ordinance: *Ex Parte Smith*, 135 Mo. 223, 227, citing *St. Louis vs. Roche*, 128 Mo. 541.

Manager of corporation not liable for violation of ordinance by employee unless done with his consent or by his direction: *Kansas City vs. Dickey*, 76 Mo. App. 437. But one who is manager in fact and so regarded may be held as manager although he is not exclusive manager nor technically such: *State vs. Hemenover*, 188 Mo. 381.

Ordinances declaring offenses concurrently with state statutes.—The city may enact ordinances (within its charter powers), prohibiting acts as misdemeanors as to which there are state statutes making the same act punishable by indictment, and may proceed in its own name in the police courts independently of the state offense if the ordinance is not inconsistent therewith: *State ex rel vs. Walbridge*, 119 Mo. 383, 392; *Canton vs. McDaniel*, 188 Mo. 207, 228; *Ex Parte Hollwedel*, 74 Mo. 395, 401-402 citing cases; *St. Louis vs. Schoenbusch*, 95 Mo. 618; *St. Louis vs. Cafferata*, 24 Mo. 94, 97; *St. Louis vs. Bentz*, 11 Mo. 61; *Kansas City vs. Neal*, 49 Mo. App. 72; *De Soto vs. Brown*, 46 Mo. App. 148; *St. Louis vs. Delassus* (decided by Sup. Ct. July 2, 1907, not at this writing reported, and cases there cited and discussed.) And hence a former acquittal or conviction under a state law is not a bar to the prosecution under the ordinance: *Canton vs. McDaniel supra*; and *vice versa*; *State vs. Gustin*, 152 Mo. 108.

But if the ordinance undertakes to make that a misdemeanor which is inconsistent with rights under the statutes applicable to St. Louis, or the constitution, it is void; the city cannot do that which is not in harmony with the policy of the state as manifested by its general laws upon the subject: *St. Louis vs. Meyer*, 185 Mo. 583, 597. On this proposition in general, that the city ordinances must be in harmony with the statutes and constitution, and its limitations, see introductory note to the Charter. *Ante* page 290, and the cases there cited.

And the fact that the city ordinance provides a more definite fine or penalty than is named in the general statute does not create a want of harmony between the two: *Kansas City vs. Hallett*, 59 Mo. App. 160, 163, and see cases there cited; *Kansas City vs. Zahner*, 73 Mo. App. 396. See also *St. Louis vs. Delassus, supra*.

Misdemeanor may be prosecuted as such though part of a felony; doctrine of merger applies only when the precise act, viewed in respect of its precise consequences is in question: *St. Louis vs. Lee*, 8 Mo. App. 598.

Penalty in Excess of Charter Authority is void but not if less: *Ex Parte Caldwell*, 138 Mo. 233, 241.

And a Workhouse superintendent detaining a prisoner for a longer time than the Charter warrants, although acting under a void ordinance, is liable for false imprisonment: *St. Louis vs. Karr*, 85 Mo. App. 608 (in which the prisoner was held over six months).

So it was held in *In re Larkowski*, 94 Mo. App. 623, and cases therein cited, that the laws relating to the St. Louis criminal court could not provide a different penalty than that provided by subsequent state laws, and to that extent were void (see cases on this point cited in note to "Laws Specially Applicable to St. Louis," sec. 134), and that the provision allowing prisoners fifty cents per day in working out their fines when sent to the work house or reform school by the court, was void, and that such prisoners were entitled to one dollar per day as provided in a general statute.

Sec. 1266. Police justice duty when disqualified.—Whenever it shall come to the knowledge of either police justice that a cause is pending in his court in which he may be a material witness, or in which he may be interested or of kin to the defendants, it shall be his duty to excuse himself from acting as judge in said cause, and he shall at once certify and transmit said cause, together with all papers and documents relating to same in his court, to the other police justice in the city, who shall receive and dispose of same as if said cause originated in his jurisdiction. (M. C., sec. 1190.)

Cases of misdemeanor where a change of venue is taken or where transferred on motion may go to the police court south of Arsenal street. See sec. 1318. A defendant who files an application for change of venue thereby submits his person to the jurisdiction of the court: In re Jones, 90 Mo. App. 318.

Sec. 1267. Hours and days of session.—There shall be a daily session of the police courts (Sundays, Christmas, New Year's, Thanksgiving Day, the twenty-second day of February and the Fourth of July excepted), commencing at the hour of nine o'clock in the morning, and all the cases set for each day shall be tried on each day, provided there be sufficient time between the hours set for the meeting of the court and sundown of the same day, except such cases as may be continued, as hereafter provided. (M. C., sec. 1191.)

Sec. 1268. Police justices and clerks—appointment and terms.—The mayor shall appoint the police justices and a clerk for each of said courts, who shall hold their offices for four years, and until their successors are appointed and qualified. All such appointments shall be subject to the confirmation of the council. (M. C., sec. 1192.)

The power to establish the court carries as incidental thereto the power to provide for clerks and to define their duties: Ex Parte Kiburg, 10 Mo. App. 442, 446.

Sec. 1269. Assistant police court clerks—duties—qualifications—bond—salary.—The clerk of the first district police court may, by and with the approval of the mayor, appoint two assistants, who shall aid said clerk in the discharge of his duties and who shall perform such services as said clerk may from time to time assign to them and designate, and each of said assistant clerks is hereby empowered to do and perform all things in the name of the clerk, as the clerk is or may be by law empowered to do or perform. Each of said assistants shall be a qualified voter and a resident of the City of St. Louis for at least two years prior to his appointment. Each of said clerks shall give a bond to the City of St. Louis, with one or more sufficient sureties, to be approved by the mayor and council, in the sum of twenty-five hundred dollars for the faithful performance of his duties and for the faithful payment to the clerk or treasurer, or to any person or persons entitled thereto, of all moneys that may come into his hands. Each of said assistant clerks shall receive a salary of eighty three and thirty-three and one-third hundredths dollars per month, payable at the end of each month. (Part of Ord. 21518.)

Repeals Ord. 19912. The ordinance also contained the following provision omitted in the revision as obsolete: "Provided, that the assistant clerk appointed under the provision of said ordinance nineteen thousand nine hundred and twelve shall continue in office and discharge all the duties of his office until the expiration of the term for which he was appointed, and thereafter an assistant clerk shall be appointed for a term of four years, and the appointment of the other assistant clerk shall be for a term expiring on the thirty-first day of December, nineteen hundred and four, at which date said office of such assistant clerk shall cease to exist."

Sec. 1270. Additional assistant clerk—duties—qualifications—salary.—In addition to the assistant clerk now authorized to be appointed by the clerk of the First District Police Court said clerk may by and with the approval of the mayor, appoint one other assistant clerk who shall aid him in the discharge of his duties, and shall perform such services as said clerk may from time to time assign to him. Said assistant clerk shall be a qualified voter and a resident of the City of St. Louis for at least two years prior to his appointment. He shall give bond to the City of St. Louis with one or more sufficient sureties to be approved by the mayor and council in the sum of twenty-five hundred dollars, conditioned for the faithful performance of his duties and for the faithful payment to the clerk, treasurer or to any person or persons entitled thereto of all moneys that may come into his hands. Said assistant clerk shall receive a salary of one thousand dollars per annum, payable in equal monthly installments at the end of each month. The first appointment of said assistant clerk herein provided for shall be for a term expiring on the first Tuesday of April, nineteen hundred and seven, and thereafter said appointment shall be for a term of four years, provided, however, said assistant clerk may be removed at any time by the clerk of the first district police court with the approval of the mayor. (Ord. 22010.)

Sec. 1271. Qualifications of police justice.—A person to be eligible to the office of police justice, shall be at least thirty years of age, a licensed and practicing attorney for at least five years prior to his appointment, a citizen of the United States, and shall have resided in the City of St. Louis for three years next preceding his appointment. (M. C., sec. 1193.)

Sec. 1272. Qualification of clerk—deputy clerk.—A person to be eligible to the office of clerk of said court, shall be at least twenty-five years of age, a citizen of the United States, and shall have resided in the City of St. Louis three years next preceding his appointment. The clerks of said police courts are hereby authorized to appoint such deputies, subject to the approval of the mayor, at such times as may be necessary, who shall perform in all respects the duties of clerk of the police court for which they have been appointed, such deputies to be paid by the clerk of such police court, and the principal shall in all respects be liable for the acts of his deputies. (M. C., sec. 1194.)

Sec. 1273. Duties of clerks.—The duties and requirements of each of the clerks, except as otherwise provided, shall be as follows:

FIRST, OATH AND BOND.—He shall take the oath required of city officers and give bond to the city in the sum of five thousand dollars, with one or more securities, to be approved by the mayor and council, conditioned for the faithful performance of the duties required of him by law and ordinance, and paying over to the treasurer or any person or persons entitled thereto, all the money that shall come into his hands.

SECOND, TRIAL DOCKET.—He shall produce each day at the opening of the court a docket in which shall be entered all suits set for trial on that day, and the offenses for which the suits have been instituted, and the police justice shall note upon said docket the judgment or other action in such suit as soon as the same is had.

THIRD, APPEAL DOCKET—TRANSCRIPT.—He shall keep an appeal docket in which shall be duly recorded all the proceedings had in any suit in which an appeal shall have been granted to the St. Louis Court of Criminal Correction, and, upon an appeal being perfected, he shall make out and certify

to said court a full transcript of the proceedings had in said suit, for which (unless the city be appellant), he shall collect from the appellant a transcript fee of one dollar and a half, which transcript fee the clerk shall be required to pay into the treasury within three days after the appeal is taken.

FOURTH, COSTS, FEE BILLS, FINES AND REPORTS.—He shall tax all costs in his court (subject, however, to appeal to the police justice), to make out all fee bills and executions; to make out and issue all processes of the court, and sign the same as clerk, to make to the auditor each month a statement of all the fee bills and executions returned to him satisfied by the marshal during the preceding month, to furnish to the municipal assembly, at each regular session a full statement, of the amount of fines imposed, amount of fines remitted by the mayor so far as the same appertains to cases from his court, amount of fines and costs collected by execution to the workhouse, and fines and costs outstanding since the commencement of the previous session, to administer oaths, to certify to transcripts from the dockets of the police justice, and other records of the court, and generally when not otherwise prescribed by ordinance, the duties of said clerk shall be, as near as may be, the same as those required of the clerk of the St. Louis Court of Criminal Correction.

FIFTH, RECORDS, BOOKS AND PAPERS—MANNER OF KEEPING.—He shall have the care and custody of all the books, records and dockets of the court, shall file and preserve all papers which pertain to any suit or other proceedings had therein, and shall keep a book or books provided for that purpose, in which he shall enter the names in alphabetical order of all persons tried before the police justice, the date of the trial, the number of the cause, according to the entry on the execution blotter, the violation or offense charged, and the judgment rendered; said book shall be called the "alphabetical index." He shall also keep another book to be called the "execution blotter," in which he shall enter the names of every person tried before the police justice, in the order in which their names appear on the docket, the date of trial, the violation or offense alleged, and the judgment rendered, and these entries shall be numbered in their order for each month, separately, commencing with number one for the first entry in each month, and all numbers on papers pertaining to the several cases, or on entries of the cases in other books shall correspond with the number of the cases severally on the "execution blotter." He shall also keep another book to be called the "execution book," with a debtor and creditor side, in which he shall enter on the debtor side every fee bill or execution delivered to the marshal, placing in separate columns the amount of the fine, the police justice's fees, clerk's fees, city attorney's fees, marshal's fees and witness' fees, on the credit side he shall enter in like manner every fee bill or execution returned to him by the marshal, taking care to keep together fines and fees satisfied, in distinct columns from fines and fees in workhouse or other cases in which the same are not collected. He shall also keep a roll of attorneys for the police court, and no attorney shall practice in said court, unless his name appear on said roll of attorneys, by authority of the police justice.

Justice cannot disbar attorney: See note to sec. 1264.

SIXTH, EXECUTION.—He shall furnish to the marshal immediately upon the conviction and sentence of a prisoner, an original execution or a true copy of the same, with all costs indorsed thereon, proper to be taxed up in the cause, that he may collect the same without delay, and upon failure to collect that he will immediately cause the prisoner to be removed to the Workhouse with all possible dispatch.

SEVENTH, ASSIST CITY ATTORNEY.—He shall so far as is consistent with

the duties of his office, assist the city attorney in receiving complaints and making out the necessary papers therefor. (M. C., sec. 1195.)

Sec. 1274. Persons in custody to be tried first.—Persons in custody shall be tried first, if ready for trial; all other persons shall be tried in the order in which their names appear upon the docket. (M. C., sec. 1196.)

Sec. 1275. Bail, by whom to be taken.—Any person arrested for any violation of an ordinance may be admitted to bail by executing a bond to the city, with sufficient security, to be approved by the mayor, police justice, the marshal or his deputies, the chief of police, police captains or other police officers in charge at the time of any station house, but by the police justice only, when the case is on the docket of the police court, in such an amount at the discretion of the officer as will secure the prisoner's presence, but not exceeding the sum of five hundred dollars, conditioned that said person will appear upon a day named before the proper police court, to await his or her trial upon the charge against him or her, and every bond taken as above shall be forthwith filed with the clerk of said police court, by the officer approving and taking out such bond; provided, that no attorney at law, police officer, constable or his deputy, or any officer of the City of St. Louis, whether elected or appointed, shall be received as security upon such bond; and provided, further, that no one shall be accepted as bondsman who shall have standing against him an unsatisfied judgment rendered on a forfeiture of bond. (M. C., sec. 1197.)

Sec. 1276. Bonds—when forfeited—procedure.—If the defendant fails to appear according to the condition of his bond, or having appeared shall leave the court without awaiting his trial, the proceedings against the defendant, and the surety or sureties on his bond shall be governed by the laws of the State of Missouri regulating proceedings in cases of bond forfeitures before justices of the peace in misdemeanors. (M. C., sec. 1198.)

State laws relating to bond forfeitures before justices of the peace in misdemeanors, R. S. 1899, Chap. 16, Art. XII, particularly sections 2793 to 2800.

Sec. 1277. Suits—manner of bringing.—All suits in the police courts (except such as are brought by the report of the chief of police or other duly authorized officers of the board of police commissioners), shall be in the manner and form following: There shall be filed with the clerk of a police court a statement signed by the city attorney or person acting in his stead, which statement shall be in the form substantially as follows: City of St. Louis, — 19—, A. B., to the City of St. Louis, debtor to — dollars, for a violation of an ordinance of the City of St. Louis, entitled an ordinance (here insert the title of ordinance), approved the — day of —, A. D. 19—, in this, towit: The said A. B., in the City of St. Louis, between the — day of —, A. D. 19—, and the — day of —, A. D. 19—, did (here insert particulars). —, city attorney of the City of St. Louis. (M. C., sec. 1199.)

See note to sec. 1265 and to sec. 1279.

Sec. 1278. Joint offenses—procedure.—The said statement may include several persons charged with the same offense, who may be tried jointly at their discretion, and on conviction pay jointly, fines and costs; but if they elect to be tried separately, they shall, on conviction, pay each separately, a fine and costs. (M. C., sec. 1200.)

Sec. 1279. Suits—sufficiency of statement—not to be dismissed for formal defects.—No suit shall be dismissed for any formal defects in the statement of the city attorney, or on the report of the chief of police or other duly authorized officers of the board of police commissioners, if it substantially set forth the nature of the violation alleged. (M. C., sec. 1201.)

Proceedings are civil.—That the proceedings in a police court for violation of a city ordinance is a civil proceeding see authorities in note to sec. 1265.

Sufficiency of statement.—Observance of the rules of technical pleadings in a court of record or in a criminal proceeding is not required in the police court. The proceeding may be assimilated to the informal procedure before a justice of the peace. The statement is sufficient if it inform defendant of the offense which he is called upon to answer: *Springfield vs. Ford*, 40 Mo. App. 586, 588; *St. Louis vs. Smith*, 10 Mo. 438; *St. Joseph vs. Levin*, 128 Mo. 588, 592. See also *St. Louis vs. Liessing*, 190 Mo. 464, 491-492; *St. Louis vs. Bippin*, 100 S. W. (Sup. Ct.), 1048.

The statement or information is sufficient if it charge the violation in the language of the ordinance: *Louisiana vs. Anderson*, 100 Mo. App. 341; *St. Louis vs. Knox*, 74 Mo. 79; *Gallatin vs. Tarwater*, 143 Mo. 40, 46; *St. Louis vs. Weitzel*, 130 Mo. 600, 612; *Trenton vs. Devors*, 70 Mo. App. 8; or substantially so: *De Soto vs. Brown*, 44 Mo. App. 148.

But a statement referring to the whole revision of ordinances is insufficient, without specifically referring to the particular section violated: *Kansas City vs. Whitman*, 70 Mo. App. 630, 633. And a complaint is insufficient which refers to no particular ordinance, nor what the penalty is, nor alleges such attendant circumstances as to advise the defendant of the cause of action: *Memphis vs. O'Connor*, 53 Mo. 468; *Marshall vs. Stanard*, 24 Mo. App. 192. It would seem that the statement must allege the offense to have been committed within the limits of the city: See same principle: *State ex rel vs. Baker*, 74 Mo. 394; *Salisbury vs. Patterson*, 24 Mo. App. 169. And a statement is bad which is so indefinite that it might not operate as a bar to another action: *St. Louis vs. Babcock*, 156 Mo. 148, 153. Such proceedings may be, in fact to be effective *must* be, summary: *Delaney vs. Police Court*, 167 Mo. loc. cit. 678.

If the statement charges several distinct offenses conjunctively in one count, and no motion to elect or to strike out is made, a general conviction will be upheld if proper under any one of the offenses charged: *St. Louis vs. Weitzel*, 130 Mo. 600, 613; see also *Gallatin vs. Tarwater*, 143 Mo. 40, 47. And hence a motion to quash the whole, if any offense in any charge is good, is treated like a general demurrer and must be overruled: *St. Louis vs. Grafeman Dairy Co.*, 190 Mo. 492. An information not signed by the proper person cannot thereafter be ratified and the proceeding must be dismissed: *K. C. vs. Flanagan*, 69 Mo. 22. There need not be any information filed: *Billings vs. Brown*, 106 Mo. App. 240.

Sec. 1280. Suits—statement in may be amended.—When any statement of the city attorney or report of the chief of police or other duly authorized officer is declared defective in form, and not in substance, the same may be amended, if so amended within two hours from the time of the decision by the justice, upon such terms as the justice may require, but no continuance shall be granted for a longer period than in other cases. (M. C., sec. 1202.)

An amended information may be filed before the police justice without notation on the docket; and on appeal the minute entry by the clerk together with his certificate sent up with the other papers in the case sufficiently shows that the amended information was filed, and when: *St. Louis vs. Lee*, 8 Mo. App. 598. Proceeding on report of chief of police is subject to amendment: *St. Louis vs. Vert*, 84 Mo. 204. Under the Kansas City ordinances an amendment cannot be allowed on appeal in the criminal court: *Kansas City vs. Whitman*, 70 Mo. App. 630.

Sec. 1281. Suits—summons, when to issue—how served.—Upon the statement being filed as provided in section 1277, the police justice or the person acting in his stead, shall issue a summons thereon, return-

able forthwith, which shall be delivered to the marshal, who shall forthwith proceed to execute the same, either by reading it to the defendant, or by delivering him a copy thereof, or by leaving a copy of it at his usual place of abode, with a person of the family over the age of fifteen years; and, if the person against whom the summons shall be issued, shall refuse to hear the same read, or to receive a copy thereof, the officer serving the same shall forthwith arrest him and he shall be proceeded against as if said summons had been duly served. (M. C., 1203.)

The cause being a civil one jurisdiction of the person may be obtained either by due service of process or voluntary appearance: *In re Jones*, 90 Mo. App. 318. But a summons cannot be issued, it seems, without the statement first filed, and the court has no jurisdiction: see *Missouri City vs. Hutchinson*, 71 Mo. 46.

Sec. 1282. Suits—how tried.—Upon the return of the summons by the marshal, the police justice or person acting in his stead, shall be fully possessed of the cause and shall proceed to hear and determine the same in a summary way, and to that end shall issue subpoenas for witnesses, and attachments and other summary processes, if necessary, to compel their attendance. (M. C., sec. 1204.)

Prosecution under ordinance abates upon the death of the defendant: *Carrollton vs. Rhomberg*, 78 Mo. 547. "Such proceedings may be, in fact to be effective must be, summary:" *Delaney vs. Police Court*, 167 Mo. 1. c. 678.

Sec. 1283. Suits—proceedings on default.—When a defendant, duly summoned, fails to appear at the time the suit is set for trial, the police justice shall proceed to hear and examine the testimony offered on the part of the city, and shall render judgment by default against the defendant for such amount, under the ordinance, as he may deem justice requires; but such judgment by default may be set aside by the police justice and a new trial granted within ten days after the rendition; provided, that the defendant shall, within ten days, make application and show good cause for said setting aside, and shall pay all costs which have accrued, unless he show that he was prevented by unavoidable circumstances from attending at the trial, in which case he shall not be required to pay the costs. (M. C., sec. 1205.)

The rule in a criminal proceeding that a person cannot be tried in his absence does not apply to a prosecution for violation of an ordinance: *In re Miller*, 44 Mo. App. 125, 127.

Sec. 1284. Suits—persons under arrest—trial upon report of chief of police.—No summons or warrant shall be issued against any person lawfully arrested by any officer or member of the city police, but in every such case a trial shall be had upon the written report of the chief of police, but the party so arrested may require of the city attorney to file a written statement setting forth the nature of the offense with which he is charged and the ordinance under which the charge is brought, and for this purpose the police justice shall allow a reasonable time not to exceed twenty-four hours. (M. C., sec. 1206.)

The report of the chief of police need not be signed in person but may be signed by his subordinate having charge of such matters: *St. Louis vs. Vert*, 84 Mo. 204; *Ex Parte Hollwedel*, 74 Mo. 395; *Ex Parte Washington*, 10 Mo. App. 495.

The trial may be had though the report does not ask judgment for a particular sum since the maximum and minimum penalties are fixed by ordinance: *St. Louis vs. Vert*, 84 Mo. 204. Such report is subject to amendment: *Ib.* As to sufficiency of a report and necessary particulars see *St. Joseph vs. Harris*, 59 Mo. App. 122.

Sec. 1285. Custody—parties in, to be brought for trial each day.—At the opening of the police court, each day, the marshal shall bring before the court, for trial, all persons who may be in custody for violation of ordinances, and the calaboose-keepers shall, for this purpose, deliver to the marshal all the prisoners in their keeping; provided, that no person whose case has been continued to a later day shall be required to be so brought before the court, unless by order of the police justice. (M. C., sec. 1207.)

Sec. 1286. Jury—of what number to consist.—A jury before the police courts, shall consist of six persons, unless the parties agree to a less number, or unless the state law requires a jury of twelve. (M. C., sec. 1208.)

But in the absence of ordinance neither the federal nor state constitution guarantees the right to a trial by jury for violation of a mere municipal police regulation: *Delaney vs. Police Court*, 167 Mo. 667; *Ex Parte Kiburg*, 10 Mo. App. 442. See note to sec. 1265. Hence if an ordinance giving a jury trial requires a deposit for costs, defendant must comply with such provision before he is entitled to a jury: *Delaney vs. Police Court*, *supra*. Defendant waives a jury by submission of an agreed statement of fact: *St. Charles vs. Hackman*, 133 Mo. 634.

Sec. 1287. Jury—venire for, when to issue.—Upon a jury being demanded, the police justice shall issue his venire, returnable at the time the case may be set for trial, and if forthwith, the suit shall be put at the foot of the day's docket, and the police justice shall immediately proceed to try the next suit in order. (M. C., sec. 1209.)

Sec. 1288. Jury—proceedings when marshal disqualified.—When the marshal is of kin to the prosecutor or defendant in any suit, or the defendant shall file an affidavit that the marshal is so prejudiced against him that justice may not be done in the selection of a jury, the police justice shall issue his venire to some disinterested person, who, before executing the same, shall be sworn faithfully and impartially to execute it, and who shall, for its execution, receive the same compensation as is allowed to constables for the same service in justice courts. (M. C., sec. 1210.)

Sec. 1289. Jury—oath or affirmation to be administered.—Jurors shall be sworn or affirmed, to well and truly try the matter in issue and a true verdict render, according to the law and evidence. (M. C., sec. 1211.)

Sec. 1290. Trials—when separate had.—Persons jointly charged shall have a separate trial if they demand it before the trial be gone into, or before the jury be impaneled. (M. C., sec. 1212.)

Sec. 1291. Trials—jury to assess penalty.—If any jury find the defendant guilty, they shall assess the penalty within the limits prescribed by the ordinance, where the same is not specially fixed by ordinance at a given sum. (M. C., sec. 1213.)

Sec. 1292. Trials—costs assessed on conviction.—In every suit for violation of city ordinance before the police justices, where the defendant shall be convicted, the following costs shall accrue, and shall be collected from defendant in like manner, with the fine imposed, to-wit: A

police justice's fee of seventy-five cents, a clerk's fee of fifty cents, a city attorney's fee of one dollar, a marshal's fee of seventy-five cents, and a fee of fifty cents for every witness and juror claiming it, to be paid into the treasury. (M. C., sec. 1214.)

Sec. 1293. Suits—when dismissed on payment of costs.—Whenever a defendant is proven guilty of a violation of ordinance, which violation is, in the judgment of the police justice, of a trivial nature, he may, at his discretion, dismiss defendant upon payment of costs. (M. C., sec. 1215.)

Sec. 1294. Suits—costs on abatement of.—Whenever a defendant shall be brought before the justice court by summons, and it shall be shown to the police justice that since the filing of the complaint, the cause of complaint has been abated, the police justice may dismiss defendant on payment of costs. (M. C., sec. 1216.)

Sec. 1295. Suits—costs of, when prosecutor to pay.—When a defendant is acquitted, the informant or prosecutor may be adjudged to pay the costs if it appear to the police justice that the prosecution was with malice or without probable cause, and in case any informant, prosecutor or person (other than a city officer), at whose instance or upon whose information, any suit may be instituted by the city, shall neglect and fail to appear and prosecute the same, after being duly summoned, said informant or prosecutor shall be adjudged by the police justice to pay the costs that may have accrued in the case so reported. (M. C., sec. 1217.)

Sec. 1296. Suits—officers as witnesses, requirement.—Officers shall attend as witnesses against persons whom they have arrested without being summoned, and if they fail to appear at the time of trial, they may be attached and punished for contempt, as witness summoned. (M. C., sec. 1218.)

Sec. 1297. Witnesses—fees of.—All witnesses and jurors (city officers and prosecutors excepted), duly summoned in any suit before a police justice, and attending at the trial, shall be entitled to fifty cents for each day's attendance; but they shall not charge for attendance in more than one suit on the same day, and every witness or juror shall be deemed duly summoned, who is sworn to serve or testify in any case. (M. C., sec. 1219.)

R. S., 1899, provides that no officer, appointee or employee holding a state, county, township or municipal office, including police officers and policemen, etc., is allowed any witness fee for testifying before a coroner, grand jury or in any criminal case. See note to Charter Art. III., sec. 26, clause 8, as to right of officers to witness fees.

Sec. 1298. Witnesses—fees of—claim for and payment.—Whenever a witness is entitled to and claims his fees for attendance at any police court, the clerk of said court shall give him a certificate of the amount due him, stating name of defendant and witness, with the date of the trial, and the marshal shall, on the presentation of the said certificate to him, pay the same from any moneys in his possession belonging to the city; when the city fails to sustain the charge, and otherwise provided, the same has been collected from the defendant, and shall at the end of every month, file every such certificate with the auditor, who shall allow the same in settlement of the marshal's accounts. (M. C., sec. 1220.)

Sec. 1299. Suits—continuances, when granted.—Whenever a suit is first called up for trial, if either party be not ready owing to the absence of witnesses material to the case, a continuance shall be granted by the police justice for one day, on the application of the party desiring it. If a continuance is wanted by either party for a longer time, the party making application may be required to state under oath the materiality of such witness, and his name, residence, and occupation, if known, whereupon a continuance may be granted for a period not exceeding ten days; if upon the calling of the case at the time to which it shall have been continued, a second continuance is asked, the party applying therefor shall be required to make affidavit, stating the materiality of the absent witness, what he expected to prove by him, and what means have been used to procure his attendance; if sufficient cause be shown, in the judgment of the police justice, he shall grant a further continuance, not exceeding thirty days; provided, that if the defendant be in custody, and unable to give bail, no continuance shall be granted in behalf of the city for a longer time than forty-eight hours (except when Sunday shall intervene), nor shall a second continuance be granted in its behalf, unless the defendant be admitted to bail, but the police justice may admit him to bail on his own recognizance, in like manner as if he gave security, in which case a further continuance, not exceeding thirty days, may be granted in behalf of the city. (M. C., sec. 1221.)

Sec. 1300. Suits—continuances, application for, when to be made—motions for dismissal, etc.—All applications for continuance shall be made, either at the opening of the court in the morning of the day on which the case is set for trial, or when the suit is called for trial, and at no other time, unless by permission of the police justice; and all motions for dismissal on account of informality or illegality in the paper or proceedings, and all other motions in relation to matters which do not necessarily arise during the progress of a trial, and all pleas except of “guilty” or of “not guilty,” must be made and filed in writing and argued when the case is called up for trial, and at no other time. (M. C., sec. 1222.)

That arraignment and plea are not essential see authorities in note to sec. 1265.

Sec. 1301. Depositions—when may be read in evidence.—Depositions taken in conformity to the laws of the state may be read in evidence on behalf of the defendant before a police justice, in any case where the witness is dead, or by reason of sickness, old age, or bodily infirmity, or absence from the city, is unable or cannot safely attend to the trial; provided, that such absence is without collusion of the party offering the deposition. (M. C., sec. 1223.)

Sec. 1302. Notices—to be served on city attorney.—All processes and notices which it may be necessary in any suit before the police justice to serve on the city, shall be served on the city attorney or the person acting in his stead. (M. C., sec. 1224.)

Sec. 1303. Prosecuting attorney—when police justice may appoint.—In the absence of the city attorney or assistant city attorney, when any suit in which the city is plaintiff is about to be tried, the police justice may, if he deems it necessary, appoint some one to prosecute on behalf of the city, who shall, during the time he is so acting, possess all the power vested in the city attorney. (M. C., sec. 1225.)

Sec. 1304. Affidavits for city, by whom to be made.—When an affidavit upon the part of the city shall be required in any cause which has originated in a police court, it shall be made by the city attorney or assistant city attorney, or in case of their inability, by any person to whom the facts are known. (M. C., sec. 1226.)

Sec. 1305. Appeals—jurisdiction of.—An appeal shall lie from the judgment of a police justice to the St. Louis Court of Criminal Correction in all cases in like manner as provided by law for appeals from justices of the peace in criminal cases. (M. C., sec. 1227.)

Appeals.—At the session of 1907 (Session Laws 1907, p. 91), the legislature regulated the manner of appeal, and provided for the giving of bond, and for fines, and the effect of the appeal and failure on appeal to pay costs, if convicted, etc. See also act of 1873, p. 358, R. S., 1899, p. 2547 (as set out in Laws Spec. Applicable to St. Louis, sec. 137). Under the Charter appeals from police courts are to be taken . . . "in like manner as provided by law for appeals from justices of the peace in criminal cases to their appellate courts," etc. Charter, Art. IV., sec. 25; and see also Laws 1907, p. 91. In such cases appeals are allowed if the defendant shall, "immediately after the judgment is rendered file an affidavit stating," etc. R. S., 1899, sec. 2782. The affidavit should be filed on the same day unless satisfactory cause appear; the word "immediately" means "within such convenient time as is requisite for doing the thing": St. Louis vs. Gunning, 138 Mo. 347. The Charter gives right of appeal from the police court to the court of criminal correction where a trial *de novo* is had, as in cases of appeal from justices' courts: St. Louis vs. Pahl, 114 Mo. 32 (holding also that an appeal from C. C. only matters to which exception was there taken can be reviewed). The prosecution in the police court sufficiently resembles a criminal proceeding to make the natural channel for such case to go through the criminal court and not the circuit court, to reach its ultimate appellate destination: Douglas vs. K. C., 147 Mo. 428, 436. When the record shows nothing to the contrary, it will be presumed that an appeal from an inferior court was taken within the time allowed by law: Kansas City vs. Clark, 68 Mo. 588. The voluntary appearance in the appellate court does not confer jurisdiction if the appeal was not taken in statutory time: St. Louis vs. Gunning, 138 Mo. 347 (holding that the law in force when the appeal is taken governs).

Appeal from C. C. should be to Supreme court: St. Louis vs. Coffee, 76 Mo. App. 318; see also St. Louis vs. Pahl, *supra*; see notes to laws relating Court Criminal Correction in "Laws Applicable to St. Louis," secs. 102-139, being *ante* pages 97 to 139.

Sec. 1306. Appeals—by city.—The city attorney, or person prosecuting in his stead, may, with the consent of the comptroller, take appeal on behalf of the city from the judgment of a police justice, but the next foregoing section shall not be construed so as to require of the city any bond or affidavit when the city is the party appellant. (M. C., sec. 1228.)

The city has the right to appeal from the police court: Charter, Art. IV., sec. 25; St. Charles vs. Hackman, 133 Mo. 634, 640; Kirkwood vs. Autenreith, 11 Mo. App. 515. But from the Court of Criminal Correction the case must be reviewed by the city by writ of error not appeal, though the defendant might appeal: St. Louis vs. Marchal, 99 Mo. 475. As to Court of Criminal Correction, see notes to "Laws Spec. Appl. to St. Louis", Chap 5, Art. IV., secs 102-139.

Sec. 1307. Executions—when issued, form of.—Upon the rendition of any judgment by a police justice imposing a fine or penalty, if the defendant does not immediately pay the same with all the costs accruing thereon, the police justice shall forthwith cause execution to be issued against defendant for the amount of such fine or penalty and costs, in the following form as near as may be: "The State of Missouri to the marshal of the City of St. Louis, greeting: Whereas, the City of St. Louis hath obtained judgment before the undersigned, a police justice of the City of St. Louis, against —, for the violation of an ordinance of said city, for the sum of — dollars, together with all costs in this behalf; these are, there-

fore, to command you to levy the said debt and costs of the goods and chattels of said defendant within the City of St. Louis, and expose the same for sale agreeably to law, and for want of sufficient property whereupon to levy said debt and costs, you are hereby commanded to take the body of said defendant into your custody and convey said defendant to the Workhouse of the City of St. Louis; the keeper whereof is hereby commanded to receive said defendant, and said defendant safely keep until the said debt and costs shall have been paid by said defendant's labor according to the laws of the State of Missouri, and the ordinances of the City of St. Louis, or until said defendant shall be otherwise discharged by due course of law, and you are also commanded to make return of this execution within thirty days from the date of the same, with your return indorsed thereon, stating how you have executed the same. Given under my hand and at the — district police court in the City of St. Louis, this — day of —, nineteen —. —, Clerk of — District police court." (M. C., sec. 1229.)

See next note.

Sec. 1308. Executions—how enforced.—Upon receiving the execution above stated, the marshal shall immediately take the defendant into custody; and if said defendant does not before the sundown of the same day, satisfy said execution either by paying the same in money, or by discovering to the marshal sufficient goods or chattels, the property of said defendant, whereupon to levy said execution, for debt and costs, the marshal shall without delay deliver the prisoner to the person appointed to convey prisoners to the Workhouse. (M. C., sec. 1230.)

For authorities that the constitutional guarantee against imprisonment for debt does not apply to police court penalties for violating ordinances, see note to sec. 1265.

Defendant cannot object that execution was not issued forthwith, where he himself occasions the delay; and a strict compliance that execution issue forthwith is not essential: *Ex Parte Thamm*, 10 Mo. App. 595. The clerk of the Police Court may issue the execution upon judgments in his court: *Ex Parte Kiburg*, 10 Mo. App. 442. The police judge may stay an execution or grant a reprieve: *Ex Parte Burns*, 10 Mo. App. 563; *Ex Parte Higgins*, 14 Mo. App. 601.

And Chart., Art. IV, sec. 16, confers on the Mayor authority to remit fines, forfeitures and penalties duly imposed for violation of any ordinance; and as to the Mayor's power under ordinances, see R. C., sec. 1497, and note.

Sec. 1309. Appeals, by parties committed—procedure.—Any defendant who shall have been sent to the Workhouse by authority of the preceding section, and wishing to appeal from the judgment of the police justice under the provisions of section 1305, shall, on application made to the police justice of the court in which his case was heard, be brought before the said police court, at the next sitting thereof after such application, and to this end the police justice shall cause an order to be issued upon the superintendent of the workhouse to deliver said defendant to the marshal, and the marshal shall present said order to said superintendent, who thereupon shall deliver the body of said defendant to the marshal, who shall produce the said defendant before said police court at its first sitting thereafter. (M. C., sec. 1231.)

Sec. 1310. Appeals—defendant may deposit fine and costs, pending giving bond, when.—Any defendant wishing to appeal from the judgment of a police justice, and not being ready to enter into bonds, may, before his release from custody, deposit with the marshal the amount of fine and costs imposed, which shall be received by the said marshal as collateral security for such fine and costs until an appeal is perfected, when

it shall be returned to the defendant, but if said appeal shall not be perfected within the time required by law, the said collateral shall not be returned to the defendant, but shall be applied to satisfy the fine and costs imposed on him. (M. C., sec. 1232.)

Sec. 1311. Costs—deposit for by complainant—when required.—The city attorney, when he is satisfied that a complaint or information of a violation of ordinance is made for vexation or without just cause, may, before commencing any proceedings, require the complainant or informant to deposit with the marshal double the amount of costs, that will, in his judgment, accrue in the suit, and the police justice may, at any time, after the filing of a statement by the city attorney, upon motion of the defendant, require the deposit of costs aforesaid, but the provisions of this section shall not apply to any report, complaint or information made by any officer of the city, in the discharge of his duty. (M. C., sec. 1233.)

Sec. 1312. Contempts—power of justice to punish.—Each police justice shall have power to punish all persons guilty of a contempt of his court by a fine of not more than one hundred dollars or by imprisonment in the calaboose of the city, or the St. Louis city jail, for a term not to exceed twenty-four hours, or by both such fine and imprisonment, and he may commit such person until such fine be paid and the judgment of the court be satisfied, not exceeding ten days; provided, however, that every warrant of commitment shall set forth, specifically, the facts constituting the contempt. (M. C., sec. 1234.)

Sec. 1313. Costs—from city, how collected.—The auditor shall audit and allow all accounts for costs, which shall have accrued in suits before the police justices or suits appealed from the police court to the Court of Criminal Correction, and for which the city shall have become liable by reason of judgment against it by the police justice or judge of the Court of Criminal Correction, as the case may be; provided, that such accounts duly certified as correct by the clerk of the proper police court or the clerk of the Court of Criminal Correction, as the case may be; and the auditor shall thereupon draw his warrant therefor upon the treasurer, payable out of the appropriation for expenses. (M. C., sec. 1235.)

Sec. 1314. State laws—when to govern.—The police justices and marshal in all matters pertaining to the duties of their respective offices, concerning which there is no specific provision by ordinance, shall be governed by the laws of the State of Missouri regulating proceedings in justices' courts and the duties of justices of the peace and constables, as far as the same may be applicable. (M. C., sec. 1236.)

See note to sec. 1265. This section authorizes a change of venue: see *In re Jones*, 90 Mo. App. 318, 323.

Sec. 1315. Marshal—special daily report by.—The marshal shall make daily, for the information and use of the mayor, a special report of the proceedings of each police court, in which he shall enter the names of every person fined, in the order in which their names appear on the docket of the police justice, the date of trial, the violation or offense alleged and the judgment rendered, which report shall be carefully compared with the docket of the police court, at the adjournment of the police court, and when so compared shall be signed by said marshal and immediately forwarded to the mayor. (M. C., sec. 1237.)

Sec. 1316. Prisoners—duty of marshal concerning.—It shall be the duty of the marshal each day after the session of the police courts to deliver each and every prisoner convicted and sentenced by either of said courts to the officer designated and appointed to superintend the conveyance of said prisoners to the workhouse or elsewhere, in accordance with the judgment of the court, together with the original execution or a true copy of the same, and said officer, having in charge the prisoners as aforesaid, shall deliver said prisoners with a true copy of the execution against each party sentenced and convicted to the superintendent of the workhouse, or other proper person designated, taking his receipt for each and every person delivered to him, which shall be indorsed upon the original execution, and which shall be returned to the marshal at his office. (M. C., sec. 1238.)

Sec. 1317. Salaries.—Each of the police justices shall receive a salary of twenty-five hundred dollars per annum, and the clerks of said courts shall receive each a salary of twelve hundred dollars per annum, payable monthly. (M. C., sec. 1239.)

ARTICLE II.

OF POLICE COURT SOUTH OF ARSENAL STREET.

Sec. 1318. Jurisdiction—appointment, salary of justice.—All cases of misdemeanor under the charter and ordinances of the City of St. Louis, arising within its jurisdiction, lying south of the north line of Arsenal street, shall be tried before a justice of the peace of the City of St. Louis, to be designated by the mayor and approved by the council. Also all cases of misdemeanor, arising anywhere else within the jurisdiction of the City of St. Louis, and transferred by change of venue or on motion of the first and second district police courts, to said justices of the peace as aforesaid, shall likewise be tried before said justice of the peace. The said justice shall receive as full compensation for his services the sum of seventy-five dollars per month out of the city treasury. (M. C., sec. 1240.)

Under Charter, Art. IV, sec. 27, the Municipal Assembly may increase the number of justices and districts. See as to Police Court South of Arsenal Street, *In re Jones*, 90 Mo. App. 318.

Sec. 1319. Clerk—appointment of—bond—salary.—The mayor shall appoint a clerk who shall perform all the duties required under the charter and ordinances of the city to be performed by the clerks of the police courts, so far as the same may be applicable, and the clerk shall give bond to the City of St. Louis to be approved by the mayor, in the sum of one thousand dollars, with two good and sufficient sureties, owners of unincumbered real estate, conditioned for the faithful performance of his duties. He shall receive a salary of seventy-five dollars per month, payable out of the city treasury. (M. C., sec. 1241.)

Sec. 1320. Attorney—appointment of—salary.—The mayor shall appoint an attorney, who shall have the same powers and possess the same qualifications as the city attorney, to prosecute, on behalf of the city, all cases before said justice, and all appeals from said court to any court having appellate jurisdiction of the same. He shall receive a salary of seventy-five dollars per month, payable out of the city treasury. (M. C., sec. 1242.)

Sec. 1321. **Marshal—to execute writ.**—The city marshal shall execute all writs and processes of said court. (M. C., sec. 1243.)

Sec. 1322. **Court—where held.**—The place of holding said court shall be at the first district police station, or at such other places as shall be designated by the mayor. (M. C., sec. 1244.)

Sec. 1323. **Practice and proceedings—changes of venue—appeals, etc.**—The time of holding court and the practice and proceedings before said justice, shall be the same as that governing the police courts of the city. Changes of venue shall be had and allowed to and from said justices of the peace, to or from the First or Second District Police Courts of the city, as the case may be, in like manner and form as is now provided for by law from changes of venue between said First and Second District Police Courts. Said justice of the peace may also, on his own motion, transfer any cause pending before him to either the First or Second District Police Courts, and shall have power and jurisdiction in all cases which may likewise be transferred to him by the police justice of either said First or Second District Police Courts. Appeals from all judgments rendered by said justice may be had to the court in like manner and form and according to the same practice which is now provided by law for appeals from judgments of the First and Second District Police Courts. In all other respects the procedure, practice, rules and regulations governing the practice in cases before the First or Second District Police Courts shall likewise be had and observed in the trial and procedure in cases before said justice. (Ord. 21202, amending M. C., sec. 1245.)

See *In re Jones*, 90 Mo. App. 318.

ARTICLE III.

OF JUSTICES OF THE PEACE.*

*Justices of the Peace and Constables are governed by the State statutes: See R. S. 1899, secs. 6508-6536, set out, with notes, herein under "Laws Specially Applicable to St. Louis," Chap. 5, Art. 6, (secs. 173-202, pages 114-117), which should be consulted in connection with these ordinances.

Sec. 1324. **Suitable office to be provided.**—It shall be the duty of the mayor, comptroller and city counselor to locate and provide suitable offices and rooms for the several justices of the peace, their clerks and constables, in the City of St. Louis. (M. C., sec. 1250.)

Sec. 1325. **Form, etc., of records, etc., to be prescribed.**—It shall be the duty of the city counselor to prescribe the form, size and style of all books of record, dockets and blanks required to be kept by the several justices of the peace, their clerks and constables. (M. C., sec. 1251.)

Sec. 1326. **Requisitions for supplies.**—All requisitions for supplies of whatever kind, whether required by a justice of the peace, clerk or constable, shall be submitted to the comptroller for his approval before either the commissioner of supplies or register shall be authorized to purchase the same; provided, however, that if said supplies are in the nature of printing and binding, the same shall be submitted to the city counselor for his inspection, in order that he may determine as to the correctness of form, size and style. (M. C., sec. 1252.)

Sec. 1327. Inspection of books of justices, and constables.

—The comptroller shall, once each month, thoroughly inspect and examine the books of accounts of the several justices of the peace, clerks and constables of the City of St. Louis, and verify the same; and he shall prescribe the form of all fiscal statements required to be rendered by them under the law. (M. C., sec. 1253.)

Sec. 1328. Office expenses to be paid.—The comptroller is hereby authorized to pay all expenses necessarily incurred by the justices of the peace and constables in connection with their offices from the time they qualified under the present law, provided he is satisfied that such expenses were necessary and the amount thereof reasonable. (M. C., sec. 1254.)

ARTICLE IV.**OF MARSHAL.**

Sec. 1329. Marshal—power and authority.—The marshal shall have and exercise all the power and authority which by law and ordinance were heretofore vested in the marshals of St. Louis county and the City of St. Louis at the time of the separation of St. Louis county from the City of St. Louis, so far as the same does not conflict with the laws of the State and the charter of the City of St. Louis, and he shall be subject to all the duties and obligations heretofore imposed upon the marshals of said county and city by law and ordinance. (M. C., sec. 1255.)

Sec. 1330. Bond.—The marshal shall, within ten days after he shall have received his commission, give a bond to the City of St. Louis, in the sum of ten thousand dollars, signed by two or more securities, who shall be owners of unincumbered real estate in the City of St. Louis, conditioned for the faithful performance of his duties. Said bond shall be approved by the mayor and the council. (M. C., sec. 1256.)

Sec. 1331. Duties of marshal.—The marshal shall execute and return all processes and orders of the mayor, law department, health department, police justices or justices of the peace, under any law or ordinance; he shall keep a detailed account of the receipts of all money collected by or in his office, and of all delinquencies, and shall report all receipts and delinquents monthly, to the comptroller; except in cases of police courts he shall make daily statements and returns at two p. m. of all fines imposed fines collected, fines remitted, also all costs paid in each case to the comptroller, and at the same time pay all fees received by him into the treasury, taking receipt of the treasurer therefor in triplicate, one of which he shall file with the comptroller, and one with the auditor. (M. C., sec. 1257.)

Duties: See Scheme, secs. 18, 6; Charter, Art. IV, sec. 31.

Sec. 1332. Marshal—deputies to be appointed by.—The marshal shall, with the approval of the mayor, appoint one chief deputy, one deputy of the first class and two deputies of the second class and such other deputies of the third class as he may require, and such other assistants as he may from time to time find necessary. Such deputies shall have

and exercise the power and authority which by law and ordinance were heretofore vested in the deputy marshals of St. Louis county and the City of St. Louis at the time of the separation of St. Louis county from the City of St. Louis, not in conflict with the laws of the State of Missouri and the provisions of Scheme and Charter, and shall hold their respective positions during good behavior, but may be removed for cause by the mayor and by the marshal at his pleasure. (M. C., sec. 1258.)

Sec. 1333. Salaries.—The salary of the marshal shall be four thousand dollars per annum, the salary of the chief deputy shall be sixteen hundred dollars per annum and of the deputy of the first class fourteen hundred dollars per annum. The salary of each of the deputies of the second class shall be twelve hundred dollars per annum, and the salary of each of the deputies of the third class shall be at the rate of nine hundred dollars per annum, all payable monthly, and he shall pay to such other assistants as he may require from time to time such daily compensation as may be just, to be approved by the mayor. (M. C., sec. 1259.)

ARTICLE V.

OF JURY COMMISSIONER.

Sec. 1334. Jury commissioner—salary of—office—where located, etc.—The jury commissioner of the City of St. Louis, appointed in pursuance of an act of the general assembly of the State of Missouri entitled "An act to provide a jury system in cities having over one hundred thousand inhabitants," approved April eleventh, eighteen hundred seventy-nine, shall receive from the city treasury out of any money appropriated therefor by the municipal assembly, a salary of twenty-five hundred dollars per annum, payable in equal monthly installments, at the end of each month; and he shall occupy a room in the court house to be designated by the mayor, and upon his requisition, approved by the mayor and comptroller, shall be furnished with the necessary fuel, stationery, books and furniture for the proper discharge of his duties under said act; and the deputies appointed by said jury commissioner in the manner prescribed in said act, shall draw their salaries not in excess of the appropriation made for that purpose, for the periods during which they are employed in monthly installments out of any moneys so appropriated, upon pay-rolls, which shall be certified by the jury commissioner and approved by the mayor; provided, that the jury commissioner shall devote his entire time in the discharge of the duties of his office, and shall not employ any deputies or assistants or incur any liability whatever, not provided for by appropriation. (M. C., sec. 1260.)

As to jury commissioner, see State statute R. S. 1899, secs. 6539 et seq. set out herein under "Laws Specially Applicable to St. Louis" (Chap. 5, Art. V), secs. 140 and following, being *ante*, page 106 *et seq.* The jury commissioner of St. Louis is neither a county, township nor city officer within the meaning of the Constitution, and a statute authorizing his appointment for a period exceeding four years, under certain circumstances, would not be unconstitutional: See *State ex rel. vs. Corcoran* (decided Sup Ct., July 2, 1907, but not as yet reported).

ARTICLE VI.

OF COMPENSATION OF JURORS.

Sec. 1335. Jurors—pay of.—Each grand and petit juror on the regular panel of the Circuit Court and the Criminal Court of the city, shall

receive one dollar fifty cents per day for every day he shall actually serve as such, without mileage, to be paid out of the city treasury. (M. C., sec. 1261.)

As to pay of petit jurors, see R. S. 1899, sec. 6562 (set out under "Laws Specially Applicable to St. Louis" herein, sec. 163); Scheme, sec. 31; in police court, see R. C., sec. 1297. As to grand jurors, see Scheme, sec. 28; R. S. 1899, sec. 6569-6570 (set out "Laws Specially Applicable," etc., supra, sec. 170-171. All jury fees must be collected within a year: R. C., sec. 2412.

ARTICLE VII.

OF THE PROBATE COURT.*

*There are now no ordinances in force on this subject. The provisions of the Municipal Code relating thereto (secs. 1246 to 1249, inclusive, which were ord. 19668), were founded upon Rev. St. 1899, sec. 1764 and especially R. S. 1899, secs. 6244-6246, inclusive (passed in 1897); but in *Henderson vs. Koenig*, 168 Mo. 356, the Supreme Court, in banc, declared the statute void (and necessarily with it secs. 6244-6246, supra, and all the ordinances based thereon), and in 1905 the statutory provision, sec. 1764, was in effect repealed by Session Laws 1905, p. 155, leaving the whole matter to be governed by the state statutes. See also the second appeal of said case, *Henderson vs. Koenig*, 192 Mo. 690, also decided by the court in banc. Hence the ordinance provisions are void and at all events superseded by subsequent legislation. The ordinances were expressly repealed after submission of the Revised Code to the Municipal Assembly, in ord. 22572, approved Oct. 2, 1906.

ARTICLE VIII.

OF THE JUVENILE COURT.**

**See Appendix (Ch. 13, Art. VIII, ord. 22549, approved July 12, 1906, too late for incorporation in the Revised Code). As to the act creating and concerning the Juvenile Court see "Laws Specially Applicable to St. Louis," Chapter 5, Art. 7, p. 118 et seq.

CHAPTER 14.

LAW DEPARTMENT.

- ART. I. Of city attorney.
 II. Of city counselor.

ARTICLE I.

OF THE CITY ATTORNEY.

Sec. 1336. **City attorney—qualifications.**—No person shall hereafter be qualified to fill the office of city attorney, who has not been a licensed and practicing attorney for at least two years prior to his appointment, and who shall not have been for two years next preceding his appointment, a resident of this city. (M. C., sec. 1262.)

Sec. 1337. **Assistant city attorney.**—The office of assistant city attorney is hereby created, which said officer shall aid generally in the performance of the same duties as are by law enjoined upon the city attorney. (M. C., sec. 1263.)

Sec. 1338. **Same—appointment of.**—The assistant city attorney shall be appointed by the mayor and confirmed by the council, and shall hold his office during the same term as the city attorney. (M. C., sec. 1264.)

Sec. 1339. Same—city attorney and assistant—duties of.—

It shall be the duty of the city attorney and assistant city attorney: First, to prepare all charges and to prosecute and to defend before the police justice or justice of the peace, St. Louis Criminal Court or St. Louis Court of Criminal Correction, all actions on behalf of the city, or emanating from the board of police commissioners or the health department, and defend before said courts all actions against any officer, or servant, or agent of the city, or of said health department, or said board of police commissioners, on account of his official acts, and to attend in appellate courts to all appeals or writs of error, in any case originating as aforesaid; second, to keep an office in the first district court building, and, also, keep an office in the second district court building, and at no other place or places; third, to prepare all charges, and to prosecute or defend in any court of record, any suit or action originating there, and when required by the mayor; fourth, to take an appeal or writ of error on behalf of the city, with the consent and approval of the comptroller, and make the necessary affidavits therefor, and prepare the necessary bond in the name of the city; fifth, to advise the municipal assembly or its committees, or any city officer, as the city counselor is required to do; sixth, to furnish the board of police commissioners and the board of health with the legal advice and service required by them. (M. C., sec. 1265.)

City attorney can only act when the law confers the authority to do so, and then only when he pursues the mode therein prescribed: *St. Joseph vs. Harris*, 59 Mo. App. 122.

Sec. 1340. City attorney—reports by.—The city attorney shall report to the comptroller all suits and judgments in favor of or against the city in any court of record, which it is the duty of the city attorney to prosecute or defend, and he shall make also quarterly reports to the comptroller of all unsatisfied judgments, their date, and amount recovered, in favor of the city before the police justice or any justice of the peace. (M. C., sec. 1266.)

Sec. 1341. Salaries.—The said city attorney shall receive a salary of twenty-five hundred dollars per annum, payable monthly, out of the city treasury, in full compensation for his services. The said assistant city attorney shall receive a salary of fifteen hundred dollars per annum, upon the same conditions and payable in the same manner as said city attorney. (M. C., sec. 1267.)

The city attorney is entitled to the compensation fixed by ordinance, and no other, nor can the Mayor appoint an attorney so as to make the city liable, in the absence of authority conferred on him: *Carroll vs. St. Louis*, 12 Mo. 444.

Sec. 1342. Bonds of attorney and assistant.—The city attorney shall give bond to the city to be approved by the mayor and council, in the sum of ten thousand dollars, with two good and lawful securities, conditioned for the faithful performance of his duties, and that he shall pay over to the city treasurer, or any other person or persons entitled thereto, any money that may come into his hands, and the assistant city attorney shall give a similar bond in the sum of five thousand dollars. (M. C., sec. 1268.)

Sec. 1343. Associate city attorney—duties—control of.—The office of associate city attorney is hereby created. The associate city attorney shall perform the same functions and duties as the city attorney and be subject to the control and direction of the said city attorney. (Ord. 21651, sec. 1.)

Ord. 21651, sec. 5, repeals Mun. Code, secs. 1269, 1270, 1271.

Sec. 1344. **Same—appointment—term.**—The associate city attorney shall be appointed by the mayor and confirmed by the city council, and shall hold his office until the expiration of the term for which the city attorney is then appointed. (*Ib.*, sec. 2.)

Sec. 1345. **Salary of associate city attorney.**—The associate city attorney shall receive a salary of fifteen hundred dollars per annum, payable monthly. (*Ib.*, sec. 3.)

Sec. 1346. **Bond.**—The associate city attorney shall give bond to the City of St. Louis for the faithful discharge of his duties, in the sum of five thousand dollars, with at least two good and sufficient sureties, owners of unincumbered real estate in the City of St. Louis, to be approved by the mayor and council. (*Ib.*, sec. 4.)

Sec. 1347. **City attorney or assistant may appoint substitute, when—shall not appear against city.**—The city attorney may, in case of temporary absence from the city, sickness, or inability to attend any court, at his own expense, with the approbation of the mayor, appoint some person to act in his stead for the occasion, in city cases, and when either, before assuming his office, shall have been retained as counsel adversely to the city in any case to which it is his duty to attend on behalf of the city, he shall inform the mayor thereof, who may appoint another person to represent the city in such case. The city attorney shall not appear against the city in any suit or case in court to which said city is a party, nor shall be voluntarily interested, either directly or indirectly, in any case or suit against the said city. The provisions of this section shall also apply to the assistant city attorney. (M. C., sec. 1272.)

ARTICLE II.

OF THE CITY COUNSELOR.*

*Charter provisions as to rights, duties, etc., see Art. IV, sec. 32, in general; also see Art. VI, secs. 2, 3 (as to condemnation proceedings); acts as land commissioner: Art. XVI, sec. 4; advise Police Board: Art. XVI, sec. 15; annual report, Art. IV, sec. 47; appointment and term: Art. IV, secs. 2, 9. Speaking of city attorney and counselor, the court in an old case said: "We are of opinion that the ordinance which prescribes the duties of these officers, designed to secure the services of one or the other of them in every case where legal services were supposed to be necessary." *Carroll vs. St. Louis*, 12 Mo. l. c. 446. Like any other officer, a city counselor has no vested interest in the office, and it may be abrogated by the assembly: *Primm vs. Carondelet*, 23 Mo. 22.

The article concerning the city counselor's office was amended in many respects by ordinance No. 23038, approved April 1, 1907 (which was after the approval of the Revised Code, and hence could not be included therein). That ordinance amended sections of the Municipal Code (corresponding to the sections of the Revised Code as indicated below), to-wit:

M. C., sec. 1277 (Rev. C., sec. 1352); M. C., sec. 1280 (R. C., sec. 1355); M. C., sec. 1282 (R. C., sec. 1357); M. C., sec. 1285 (R. C., sec. 1360); M. C., 1286 (R. C., sec. 1361); M. C., 1290 (R. C., sec. 1365); M. C., 1291 (R. C., sec. 1366); M. C., 1292 (R. C., sec. 1367); M. C., sec. 1296 (R. C., sec. 1371); M. C., sec. 1297 (R. C., sec. 1372). The new ordinance provides as follows:

Section Twelve Hundred and Eighty-two (R. C., sec. 1357): In addition to the qualifications prescribed by Section Ten of Article Four of the Charter, the Associate City Counselor shall have been licensed to practice law in the courts of this State at least eight years previous to his appointment; the Second Associate City Counselor shall have been licensed to practice law in the courts of this State at least six years previous to his appointment; and the Assistant City Coun-

selor shall have been licensed to practice law in the courts of this State at least five years previous to his appointment. Section Twelve Hundred and Eighty-five (R. C., sec. 1360): The City Counselor shall, with the approval of the Mayor, appoint a Chief Clerk, four Clerks and two Stenographers, who shall hold their respective offices at the pleasure of the City Counselor. Section Twelve Hundred and Eighty-six (R. C., sec. 1361): In addition to the qualifications prescribed by Section Ten of Article Four of the Charter, the Clerks and the Stenographers shall be qualified voters of the City. Section Twelve Hundred and Ninety (R. C., sec. 1365): The Assistant City Counselor shall receive a salary of Twenty-five Hundred Dollars per annum, payable monthly. Section Twelve Hundred and Ninety-one (R. C., sec. 1366): The Chief Clerk shall receive a salary of One Hundred and Fifty Dollars per month; each of the clerks shall receive a salary of One Hundred Dollars per month and Twenty-five Dollars per month for expenses in the discharge of duties that may be assigned to him, and said salary and said expense money shall be paid monthly. Section Twelve Hundred and Ninety-two (R. C., sec. 1367): Each of the Stenographers shall receive a salary of One Hundred Dollars per month, payable monthly. Section Twelve Hundred and Ninety-six: It shall be the duty of the Chief Clerk and of the Clerks to keep a record of all cases pending in any of the courts, showing the proceedings therein, both in court and before commissioners, write the reports in condemnation and change of grade proceedings, prepare the final judgments therein, make investigation of facts and collect evidence in cases in which the city is a party, make preparation thereof for trial, keep suitable indexes, prepare the oaths of commissioners in street opening proceedings, keep a record of the attendance of such commissioners, read proof on printed briefs, advertisements of benefit districts in street opening proceedings and other necessary printed matter, answer inquiries of members of the Municipal Assembly and of other interested parties respecting the progress of street openings, procure the investigation of titles and the preparation of suitable plats and blue prints in street opening proceedings, keep a ledger of moneys appropriated for the department and vouchered out, and any other necessary accounts, prepare daily lists of the court entries applicable to any pending litigation in which the City of St. Louis or any of its officials is interested, make lists of assignments and settings of cases, make preliminary examinations of all bonds and contracts which are to be submitted to the department, attend to telephone, run errands, assist in the investigation of any question of law or of fact submitted to the department, assist in the preparation of briefs, motions, pleadings, bills of exceptions, and other legal papers and documents, and perform all such other duties as may be assigned to them by the City Counselor. Section Twelve Hundred and Ninety-seven: The Stenographers shall perform all services usually incident to such positions, and shall also perform such other duties as may be required by the City Counselor.

Approved April 1st, 1907.

By ordinance 23150 (enacted after Revised Code) the office of Second Assistant City Counselor was created; see appendix for same.

Sec 1348. Law department created.—There is hereby created a law department of the City of St. Louis. (M. C., sec. 1273.)

Sec. 1349. Qualifications of city counselor.—In addition to the qualifications prescribed by section ten of article four of the charter, the city counselor shall have been a practicing lawyer for ten years, and licensed to practice law in the courts of this state at least seven years previous to his appointment. (M. C., sec. 1274.)

Sec. 1350. Bond of city counselor.—The city counselor shall give bond for the faithful discharge of his duties in the sum of ten thousand dollars with at least two good and sufficient sureties, owners of unincumbered real estate in the City of St. Louis, to be approved by the mayor and council. (M. C., sec. 1275.)

Sec. 1351. Office of associate city counselor created.—The office of associate city counselor is hereby created, to begin from and after the third Tuesday of April, eighteen hundred and ninety-five. The associ-

ate city counselor shall be appointed by the mayor and confirmed by a majority of the members of the council. (M. C., sec. 1276.)

Sec. 1352. Qualifications of associate city counselor.*—The associate city counselor shall possess the same qualifications as the city counselor.* (M. C., sec. 1277.)

Sec. 1353. Bond of associate city counselor.—The associate city counselor shall give bond for the faithful discharge of his duties in the sum of five thousand dollars, with at least two good and sufficient sureties, owners of unincumbered real estate in the City of St. Louis, to be approved by the mayor and council. (M. C., sec. 1278.)

Sec. 1354. Office of second associate city counselor created.—The office of second associate city counselor is hereby created to begin from and after the tenth day of December, eighteen hundred and ninety-seven. The second associate city counselor shall be appointed by the mayor and confirmed by a majority of the members of the council. The first appointment to be made on the tenth day of December, eighteen hundred and ninety-seven, and to be for a term ending on the first Tuesday in April, eighteen hundred and ninety-nine, and until his successor is appointed and qualified and thereafter the appointment to be contemporaneous and for a like term as that of the city counselor. (M. C., sec. 1279.)

Sec. 1355. Qualifications of second associate city counselor.*—In addition to the qualifications prescribed in section ten of article four of the charter, the second associate city counselor shall have been licensed to practice law at least five years in the courts of this state next preceding his appointment.* (M. C., sec. 1280.)

Sec. 1356. Office of assistant city counselor created.—The office of assistant city counselor is hereby created. The assistant city counselor shall be appointed by the mayor and confirmed by a majority of the members of the council. (M. C., sec. 1281.)

Ord. 23150 (enacted after Revised Code) created the office of Second Assistant City Counselor; see appendix for same.

Sec. 1357. Qualifications of assistant city counselor.*—In addition to the qualifications prescribed by section ten of article four of the Charter, the assistant city counselor shall have been licensed to practice law in the courts of this State at least four years previous to his appointment.* (Ord. 20757, sec. 1; amending M. C., sec. 1282.)

Sec. 1358. Bonds of second associate and assistant.—The second associate and assistant city counselor shall each give bond for the faithful discharge of their duties in the sum of five thousand dollars, with at least two good and sufficient sureties, owners of unincumbered real estate

*Amended by ordinance No. 23038, enacted shortly after Revised Code; see above note to heading of this article (II), where the amendments are given. The ordinance is set out in full in the appendix to Rev. Code

in the City of St. Louis, to be approved by the mayor and council. (M. C., sec. 1283.)

Sec. 1359. Terms of associate and second associate.—The associate city counselor and second associate city counselor shall hold their respective offices for four years and until their successors are duly appointed and qualified, but they shall be subject to removal by the mayor and council, provided that the first appointment of the second associate city counselor shall be for a term ending on the first Tuesday in April, eighteen hundred and ninety-nine, and until his successor is duly appointed and qualified. (M. C., sec. 1284.)

Sec. 1360. Chief clerk, clerk and stenographer—tenure.*—The city counselor shall, with the approval of the mayor, appoint a chief clerk, a clerk and a stenographer, who shall hold their respective offices at the pleasure of the city counselor.* (Ord. 20757, amending M. C., sec. 1285.)

Sec. 1361. Qualifications of clerk and stenographer.*—In addition to the qualifications prescribed by section ten of article four of the Charter, the clerks and stenographer shall be qualified voters of the city.* (Ord. 20757, amending M. C., sec. 1286.)

Sec. 1362. Salary of city counselor.—The city counselor shall receive a salary of five thousand dollars per annum, payable monthly. (M. C., sec. 1287.)

Sec. 1363. Salary of associate.—The associate city counselor shall receive a salary of four thousand dollars per annum, payable monthly. (M. C., sec. 1288.)

Sec. 1364. Salary of second associate.—The second associate city counselor shall receive a salary of three thousand dollars per annum, payable monthly. (M. C., sec. 1289.)

Sec. 1365. Salary of assistant.*—The assistant city counselor shall receive a salary of twenty-five hundred dollars per annum, payable monthly, provided, however, that this shall not apply to the present incumbent of the office of assistant city counselor during his present term, who shall receive a salary of eighteen hundred dollars per annum, payable monthly.* (Ord. 20757, amending M. C., sec. 1290.)

Sec. 1366. Salary of chief clerk and clerk—expense money of clerk.—The chief clerk shall receive a salary of one hundred and fifty dollars per month; the clerk shall receive a salary of one hundred dollars per month and twenty-five dollars per month for expenses in the discharge of duties that may be assigned to him; said salary and said expense money shall be paid monthly.* (Ord. 20757, amending M. C., sec. 1291.)

*Amended by ordinance No. 23038, enacted shortly after Revised Code; see pp. 837-838, note to heading of this article (II), where the amendments are given. The ordinance is set out in full in the appendix to Rev. Code.

Sec. 1367. **Salary of stenographer.***—The stenographer shall receive a salary of one hundred dollars per month, payable monthly.* (M. C., sec. 1292.)

Sec. 1368. **Duties of city counselor.**—In addition to the duties prescribed in section thirty-two of article four of the Charter it shall be the duty of the city counselor: First, to initiate and prosecute in the circuit court all proceedings for the appropriation and expropriation of private property, for opening, widening or altering any street, avenue, wharf, market place or public square, or route for a sewer or water pipe, as prescribed and required in article six of the charter; second, to do and perform any act necessary to be done in the prosecution of proceedings for street openings commenced before the land commissioner, and pending at the time the charter became operative, and conduct the same as provided in section four, article sixteen of the charter; third, to furnish to the board of police commissioners, health commissioner and board of health, all legal advice and service desired by them respectively; fourth, to take charge, prosecute or defend, as the case may be, all suits pending for or against the county of St. Louis as heretofore established and which the county counselor had in hand and in which the city is interested; fifth, to keep a record of all legal opinions officially given by him, in writing, with the request therefor, and an index thereto, and an account book showing all claims placed in his hands for collection, all moneys received by him on account of the city, and all payments to the city treasury, within twenty-four hours after its receipt by him, for which triplicate receipts shall be taken, one of which shall be filed in the auditor's office, and one in the comptroller's office; sixth, to keep a book or docket in which he shall enter an abstract of all suits pending in favor of or against the city, in tabular form, substantially as follows: Names of parties; suits, when brought; in what court; nature of action; names of witnesses; proofs, etc., for the city; amount of judgment; date of judgment; date of execution; remarks, etc.; which book or docket shall be delivered by him to his successor in office; seventh, to prosecute an appeal or writ of error in any case in which the city is concerned and make proper affidavits thereof when so directed by the comptroller. (M. C., sec. 1293.)

Sec. 1369. **Duty to pass on form of pending bills.**—Whenever any committee of either house of the municipal assembly, or any member of either of said houses, shall submit to the city counselor or to the associate city counselor a copy of any bill pending in either of said houses, or a draft of any proposed ordinance about to be introduced into either of said houses by any member thereof, with the request that the city counselor or the associate city counselor make such alterations or modifications in the form of such copy of a bill or draught of an ordinance, if any are necessary, as will make such bill or proposed ordinance as altered or modified conform to the proper charter requirements as to the form of ordinances, it shall be the duty of the city counselor or of the associate city counselor, as the case may be, to make such alterations or modifications as expeditiously as possible and return the copy of the bill or draught of the ordinance so altered or modified to the committee by which, or to the member by whom, the same was presented to him. (M. C., sec. 1294.)

See also hereinafter, sec. 1413 of Rev. Code.

*Amended by ordinance No. 23038, enacted shortly after Revised Code; see pp. 837-838, note to heading of this article (II), where the amendments are given. The ordinance is set out in full in the appendix to Rev. Code.

Sec. 1370. Associate, second associate and assistant—duties.—The associate city counselor, second associate city counselor and assistant city counselor shall be under the control and direction of the city counselor, and shall perform such duties in the line of their respective offices as may be designated from time to time by the city counselor or by the charter or ordinances. (M. C., sec. 1295.)

Sec. 1371. Duties of chief clerk and clerk.*—The chief clerk shall write the reports in condemnation and change of grade proceedings, and keep a record of all such cases, showing the proceedings therein both in court and before the commissioners, and such other duties as shall be assigned to him by the city counselor, or provided by ordinances. The clerk shall make investigation of facts and collect evidence in cases in which the city is a party, and perform such other duties as shall be assigned to him by the city counselor or provided by ordinances.* (Ord. 20757, amending M. C., sec. 1296.)

Sec. 1372. Duties of stenographer.*—The stenographer shall report and transcribe all testimony taken before commissioners in all proceedings for the opening of any street or alley when required so to do by the city counselor, and he shall also perform such other duties as may be required by the city counselor or ordinances.* (M. C., sec. 1297.)

Sec. 1373. Commissioners in street openings to meet in office of city counselor.—The commissioners in all proceedings for opening of any street or alley shall hold their sessions at the office of the city counselor and each adjournment shall be to a day certain which shall be noted on the record and the case set upon the session docket for that day and such session docket shall be open to the inspection of the public. (M. C., sec. 1298.)

Sec. 1374. When and how special counsel may be employed—how compensation fixed.—In case of the disability or inability only of the city counselor to act in the performance of his duty, special counsel may be employed; provided, however, that no special attorney or attorneys shall be employed in such case at the expense of the city, except by the mayor, who, when the council is in session, shall report to it in writing the facts showing the necessity for such employment, and the name or names, and the exact compensation to be paid to such attorney or attorneys, and recommend their retainer, when, if the council shall approve of such recommendation by a vote of the majority of all the members elect to said council, upon a call of the yeas and nays, then, and in such case, the mayor shall have power to contract with such attorney or attorneys upon the terms and conditions approved by the council; but when the council is not in session, then, in case of emergency, the mayor may act without the approval of the council, provided, however, that the city counselor, with the approval of the mayor, may engage local counsel to assist him in the trial cases in nisi prius courts outside the City of St. Louis, where the city is a party to the suit.

*Amended by ordinance No. 23038, enacted shortly after Revised Code; see pp. 837-838, note to heading of this article (II), where the amendments are given. The ordinance is set out in full in the appendix to Rev. Code.

at a fee not exceeding fifty dollars, to be paid out of the fund for costs and legal expenses. (Ord. 20863, amending M. C., sec. 1299.)

In the absence of authority conferred on the mayor he cannot employ an attorney so as to bind the city for his compensation: *Carroll vs. St. Louis*, 12 Mo. 444.

Sec. 1375. **Additional stenographer—compensation.**—In addition to the employees herein mentioned, the city counselor may, when in his opinion the efficient working of the department requires it, employ an additional stenographer at a rate not exceeding three dollars per day, payable out of the fund appropriated for costs and legal expenses, who shall perform such duties as may be required by the city counselor. (Ord. 21889, providing new sec. 1299a to M. C.)

CHAPTER 15.

LEGISLATIVE DEPARTMENT.

ART. I. Of municipal assembly.

II. Of ordinances.

ARTICLE I.

OF MUNICIPAL ASSEMBLY.*

Sec. 1376. **Elections to house of delegates.**—An election shall be held on the first Tuesday in April, eighteen hundred and eighty-seven, and every two years thereafter, and at said election the house of delegates, consisting of one member from each ward, shall be chosen by the qualified voters of each ward, for the term of two years from the day of election. (M. C., sec. 1300.)

Sec. 1377. **Elections to council.**—At the election to be held as aforesaid, upon the first Tuesday in April, eighteen hundred and eighty-seven, six members of the council shall be elected on a general ticket by the qualified voters of the city, whose term of office shall continue for four years from the day of election, and at the election to be held every two years thereafter, members of the council shall, in like manner, be elected to succeed those whose terms expire, for the term of four years from the day of election. (M. C., sec. 1301.)

Sec. 1378. **Compensation, members of assembly.**—Each member of the municipal assembly shall receive for his official services of every kind, annually, during his term of office, the sum of three hundred dollars, to be paid quarterly, and may be paid his reasonable expenses, authorized and incurred in any such service, to be approved by the house of which he is a member. Whenever a member of the municipal assembly is absent

*As to the charter provisions respecting the Municipal Assembly organization, election of councilmen, delegates, etc., see Chart., Art. III, secs. 1 to 11 and notes appended thereto. See also as to legislative functions of the assembly, and under what conditions the courts may interfere, note to Charter, Art. III, sec. 26; and that the acts of the assembly must be in harmony with the Laws and Constitution: note introductory to charter p. 290.

without leave from his house first obtained therefor, for an entire sitting of any meeting, he shall forfeit one dollar of his official compensation, and the secretary or clerk of the respective houses (as the case may be), shall report to the auditor at the close of each meeting, if said auditor's office be open, otherwise on the day following such meeting, the amount of forfeiture incurred as aforesaid. (M. C., sec. 1302.)

Compensation is fixed at \$300 by charter: Chart., Art. III, sec. 14. For this reason ordinances increasing the compensation were vetoed a number of times.

Sec. 1379. Special sessions—how called.—Three days' notice of all special sessions of the municipal assembly, convened by proclamation of the mayor, shall be given in the newspapers doing the city printing. Upon the issuance of such proclamation the secretary of the council and the clerk of the house of delegates shall send written notice thereof to the members of their respective houses. (M. C., sec. 1303.)

Special sessions: Called by Mayor see Charter, Art. IV, sec. 18 and note thereto, stating what may and may not be done thereat; see also Rev. Code, sec. 1496.

Sec. 1380. Officers of the council.—The officers of the council shall be a president, who shall be elected by the qualified voters of the city on the first Tuesday of April, eighteen hundred and eighty-nine, and every four years thereafter, a vice-president, a secretary, an assistant secretary, and sergeant-at-arms, each of whom shall be appointed by the council. (M. C., sec. 1304.)

Sec. 1381. Officers of the house of delegates.—The officers of the house of delegates shall be a speaker, who shall be elected by said house, a speaker *pro tem.*, a clerk, an assistant clerk, a sergeant-at-arms and messenger, each of whom shall be appointed by the house of delegates. The messenger shall be under the control of the sergeant-at-arms, and shall assist him in the duties of his office. (M. C., sec. 1305.)

Sec. 1382. Removal of salaried officers.—Either house may, by a vote of a majority of the members elect, remove any of its salaried officers, and upon such removal the salary of such officer shall then cease. (M. C., sec. 1306.)

Sec. 1383. Duties of secretary of council and clerk of house.—It shall be the duty of the secretary of the council and clerk of the house of delegates, respectively:

First. To keep a correct, full and explicit record of the proceedings of their respective houses.

Second. To prepare and to furnish the newspapers doing the city printing as soon as may be after each meeting of their respective houses an abstract of its proceedings, revised by the presiding officer, for publication.

Third. To file and preserve all papers and documents belonging to the respective houses, upon which shall be indorsed a succinct history of all proceedings had thereon.

Fourth. To prepare copies of all resolutions and transmit them to the parties therein designated.

Fifth. To keep in tabular form a synopsis of the proceedings had at each meeting, showing the term, number of each petition, resolution and bill presented, and by whom introduced, the substance of each petition and resolution, and the title of each bill, the date when the same was intro-

duced, and of the second and third readings, passage or rejection, enrollment, approval or veto, and of the registered number of bills; also of the reference of all documents, to whom referred and when reported, together with such other of the proceedings, if any, as may be deemed necessary to give a brief history thereof and furnish an index thereto; all of which shall be at the expiration of each term, printed for the use of the members of the municipal assembly and city officers.

Sixth. To perform such other duties appertaining to their respective offices as may be required of them or may be necessary to systematize the business and promote the efficiency thereof.

Seventh. The assistant secretary and assistant clerk shall each perform such duties as they shall be directed to perform by the secretary or clerk of their respective houses. (M. C., sec. 1307.)

Sec. 1384. **Sergeant-at-arms of assembly—duty of.**—It shall be the duty of the sergeant-at-arms of the council to attend all meetings of the council, to take care of the council chamber and to keep it clean, to provide fire and lights and other articles necessary therefor, and perform such other duties as the council shall require by rule or otherwise. It shall be the duty of the sergeant-at-arms of the house of delegates to attend all meetings of the house, to take care of the hall of the house of delegates and keep it clean, to provide fire and lights and other articles necessary therefor, and perform such other duties as the house of delegates shall require by rule or otherwise. (M. C., sec. 1308.)

Sec. 1385. **Salaries.**—The salary of the secretary of the council shall be at the rate of twenty-one hundred dollars per annum; the salary of the assistant secretary of the council shall be at the rate of fifteen hundred dollars per annum; the salary of the clerk of the house of delegates shall be at the rate of twenty-one hundred dollars per annum; the salary of the assistant clerk of the house of delegates shall be at the rate of fifteen hundred dollars per annum; the salary of the sergeant-at-arms of the council shall be at the rate of twelve hundred dollars per annum; the salary of the sergeant-at-arms of the house of delegates shall be at the rate of twelve hundred dollars per annum; the salary of the page of the house of delegates shall be at the rate of six hundred dollars per annum. Which salaries shall be in full compensation for all services of said officers respectively. (Ord. 22113, amending M. C., sec. 1309.)

This section was amended by ordinance 23080, approved June 21, 1907, so as to make the salaries at present as follows: Secretary of Council, \$2,400; Assistant Secretary of Council, \$1,800; Clerk House of Delegates, \$2,400; Assistant Clerk, \$1,800; Sergeant at Arms of Council, \$1,500; Sergeant at Arms of House, \$1,500; Page of House, \$900

Sec. 1386. **Janitor for council—house—salaries.**—The president of the council is hereby authorized to appoint a janitor, whose compensation shall be fifty-five dollars per month, and the speaker of the house of delegates is also authorized to appoint a janitor, whose compensation shall be fifty-five dollars per month. (Ord. 19920, M. C., p. 998.)

Sec. 1387. **Same—duties—control of janitors.**—It shall be the duty of said janitors, respectively, to keep the chamber and offices of the council and house of delegates in a cleanly condition, and to be under the control and supervision, respectively, of the president of the council and the speaker of the house of delegates. (*Ib.*, sec. 2.)

Sec. 1388. Rules and regulations, each house to make.—Each house may determine the rules of its own proceedings, and may adopt such rules and regulations for its organization and the appointment of all standing committees as it shall deem expedient, and may prescribe the duties of all its officers and committees respectively, not inconsistent herewith; provided, no committee or member thereof shall have the right to assume or perform any executive duties, either in the execution of ordinances, in the settlement of claims, or in any other manner. (M. C., sec. 1310.)

See Charter, Art. III, sec. 8 and note thereto.

Sec. 1389. Resignations, to whom addressed.—Resignation by members of the municipal assembly shall be addressed to the presiding officer of the respective houses. (M. C., sec. 1311.)

Sec. 1390. Vacancies—how filled.—If a vacancy occur in either house of the municipal assembly the presiding officer of such house shall notify the mayor thereof, who shall, by proclamation, order an election to fill the same for the unexpired term thereof, if the same exceed three months. Said election shall be held upon some day named in such order, not less than twenty nor more than thirty days next after the issuing of the proclamation. (M. C., sec. 1312.)

See Charter, Art. III, sec. 7 and note thereto.

Sec. 1391. Proceedings—copies to be furnished members.—For the purpose of affording the members of the municipal assembly better facilities for obtaining information on matters pertaining to the pending municipal legislation and the proceeding in the municipal assembly the register shall contract with the paper doing the city printing in the English language for the printing of copies of the proceedings as published in such paper in pamphlet form, and shall furnish the same within three days after each meeting to each house for distribution amongst its members. Such sum as may be necessary to pay the cost of printing said copies shall be set apart out of the appropriation for printing and no expense for printing the second time shall be incurred. (M. C., sec. 1313.)

Sec. 1392. Subpoenas—when committees empowered to issue.—Whenever either house of the municipal assembly of the City of St. Louis shall, by resolution, authorize any of its committees to make investigation of any question or matter on which such house may lawfully take action and shall empower such committee to send for persons and papers, such committee shall, thereupon, have authority to issue writs of subpoena, and of subpoena *duces tecum*. Such writs shall be signed by the presiding officer, or, in case of his absence or inability to act, by the acting presiding officer of the house to which the committee belongs, and shall be attested by the secretary or clerk of said house. Every such writ shall be served and return thereof made by the sergeant-at-arms to the chairman, of the committee in like manner and with like effect as such writs issued from the circuit court are served and returned by the sheriff. (M. C., sec. 1314.)

See Charter, Art. III, sec. 31. As to the power of the house to punish for contempt, compel attendance of witnesses and production of books, see briefs of counsel in *In re Conrades*, 185 Mo. 411, and some discussion by the court, although the case itself was decided on the ground that the resolution appointing a committee in that case did not purport to confer power on it to examine the books and papers. The court reversed the majority of the Court of Appeals which had held petitioner in contempt for failure to obey the committee, Bland, J.,

dissenting: 112 Mo. App. 21, with full discussion in majority and dissenting opinions of the authorities.

This ordinance provision (sec. 1392) was held to be within the constitutional power of the city to pass, and not an invasion of judicial functions, and that either house had a right to punish for contempt any witness refusing to produce books material in a pending inquiry properly called for in a subpoena *duces tecum*: In re Dunn, 9 Mo. App. 255.

Sec. 1393. Writs of attachment—when to issue.—In case any person named in any such writ, and who was personally served therewith, shall fail to appear before the committee at the time and place named in the writ, the committee shall have authority to issue a writ of attachment against the body of such person, to be signed as writs of subpoena are herein required to be signed and to be executed and returned to the chairman of the committee by the sergeant-at-arms, in like manner and with like effect as such writs of attachments issued by the circuit court are executed and returned by the sheriff. Any person refusing to be arrested or resisting the sergeant-at-arms in any case provided for by this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars nor more than twenty-five dollars for each offense. (M. C., sec. 1315.)

Sec. 1394. Contumacy—how dealt with.—In case any person appearing before a committee in obedience to a writ of subpoena or subpoena *duces tecum* or attachment, shall refuse or fail to answer any question propounded to him by said committee, or shall fail to produce and submit to the examination of the committee any book, record or paper which he is required to produce by a subpoena *duces tecum*, or shall in the presence of the committee be guilty of contumacious, threatening or disorderly language or conduct, the committee shall immediately report the facts to the house to which it belongs. Upon the coming in of such report, the presiding officer, if so directed by the house, shall issue a warrant, signed by himself, and directed to the sergeant-at-arms, commanding him to arrest such witness and have his body before the house at its first meeting held thereafter to answer for contempt. The sergeant-at-arms shall execute such warrant. On the hearing of the matter the house, if it shall adjudge the witness to be in contempt of its authority, may, for the first offense, punish him by a fine of not more than one hundred dollars, or by imprisonment in the city jail of not more than ten days, or by both such fine and imprisonment. For every repetition of contempt by such witness in the same investigation he shall be punished in at least double the amount of his first fine and imprisonment, or both. Any person fined under the provisions of this chapter shall, on default of payment thereof, be forthwith committed to the city jail for the terms of ten days. (M. C., sec. 1316.)

See next preceding note.

Sec. 1395. Subpoenas, etc., either house may issue.—In case either house shall, without the agency of a committee conduct an investigation or desire to take evidence on any question or matter in which it may lawfully take action, it shall have authority to issue writs of subpoena, subpoena *duces tecum*, and attachments and warrants of commitment, as hereinbefore provided in cases of investigation before committees. Every such writ or warrant shall be signed by the acting presiding officer and attested by the secretary or clerk and returnable to the acting presiding officer. All penalties hereinbefore provided for shall apply and obtain in cases of investigation made under the provisions of this section. (M. C., sec. 1317.)

Sec. 1396. Requisitions—by whom made.—The secretary of the council and clerk of the house of delegates shall make requisition, as prescribed by ordinance, for such articles as are required in the department under their charge, shall make out the pay-rolls of members and officers of their respective houses and shall certify in proper form to all vouchers drawn on the respective funds. (M. C., sec. 1318.)

ARTICLE II.

OF ORDINANCES.*

Sec. 1397. Mayor—action of, required on bills.—Every bill, immediately after its passage in both houses, shall be presented to the mayor for his approval or disapproval. And the mayor shall, within ten days after such presentation, consider and return such bill to the house in which it originated with his approval indorsed thereon or accompanied by his objection. If he approves the same it shall become a law, or in case the municipal assembly remain in session for ten days after such presentation, and the mayor fails to return such bill as herein required, it shall become a law as if approved by him; provided, that if the municipal assembly shall finally adjourn within ten days after any such presentation, the mayor shall, within ten days after such adjournment, return such bill to the register, with his approval or reasons for disapproval, otherwise it shall become a law as if approved. (M. C., sec. 1319.)

See note to Charter, III, sec. 23.

Sec 1398. Veto—action of assembly on.—Every bill presented to the mayor, but returned without his approval and with his objections thereto, shall stand as reconsidered in the house to which it is returned. The house shall cause the objections of the mayor to be entered at large upon the journal and proceed, at its convenience, to consider the question pending which shall be in this form: "Shall the bill pass, the objections of the mayor thereto notwithstanding?" The vote upon this question shall be taken by yeas and nays, and the names entered upon the journal; and if two-thirds of all the members elected to the house vote in the affirmative, the presiding officer of the house shall certify that fact on the bill, attesting the same by his signature, and send the bill with the objections of the mayor to the other house, in which like proceedings shall be had in relation thereto, and if the bill receive a like majority of the votes of all the members elected to that house, the vote being taken by yeas and nays, the presiding officer thereof shall in like manner certify the fact upon the bill. This bill, thus certified, shall be deposited in the office of the register, as an authentic act, and shall become an ordinance in the same manner, and with like effects as if it had received the approval of the mayor. (M. C., sec. 1320.)

See Charter, Art. III, sec. 25.

Sec. 1399. Ordinances—to be bound and published.—It shall be the duty of the register, as soon as practicable after the adjournment of any stated or special session of the municipal assembly, to cause the original ordinances of the municipal assembly, passed at such stated or special session, to be bound in a strong and substantial manner and properly labeled, and shall make a written index of the subject of each ordi-

*See for discussion on the subject of ordinances, notes to the Charter, Art. III, pages 308-311.

nance, its number and date of becoming a law, and the register shall preserve the volume thus bound safely, in his office; and he shall cause one hundred and fifty copies of the printed slips of the ordinances to be bound in pasteboard, at the expiration of each session, for the use of the members of the municipal assembly. (M. C., sec. 1321.)

Sec. 1400. Ordinance in revision a continuance of ordinance provisions.—The provisions of the ordinance in revision of the general ordinances of the city so far as they are the same as those of existing ordinances shall be construed as a continuance of such ordinances, and not as new enactments. (M. C., sec. 1322.)

See note to Charter, Art. III, sec. 28, and authorities there cited.

Sec. 1401. Effect of repeal.—The repeal of an ordinance or part thereof shall not revive any ordinance or any provisions thereof heretofore repealed or superseded, nor any office heretofore abolished. (M. C., sec. 1323.)

See Charter, Art. III, sec. 28; also R. S. 1899, sec. 4177.

Sec. 1402. Private or local—not affected.—All ordinances and resolutions of a private, local or temporary nature, in force at the commencement of the present session (1906-1907) of the municipal assembly, not repealed by or repugnant to, some ordinance passed at the present session of the municipal assembly, shall continue in force or expire, according to their respective provisions or limitations. (M. C., sec. 1324, amended.)

Sec. 1403. Repeals do not affect rights or suits.—The repeal of any ordinance, part of ordinance or resolution shall not affect any act done or right accrued or established in any proceeding, action, suit or prosecution or other thing had or commenced previous to the time when such repeal shall take effect, but every such act, right or proceeding, shall remain and continue as valid and effectual as if the provisions of any such ordinance or resolution had remained in force. (M. C., sec. 1325.)

An ordinance may be repealed conditionally, for instance excepting as to such violations thereof and forfeitures thereunder as had been incurred theretofore: *Kansas City vs. White*, 69 Mo. 26. Unless there is a provision to the contrary (as in *St. Louis*), the repeal of an ordinance pending a prosecution thereunder, releases the defendant: *Kansas City vs. Clark*, 68 Mo. 588.

Sec. 1404. Ordinance to be numbered, printed and preserved.—Every ordinance when passed and approved by the mayor, or when it shall have become a law, shall be sent to the city register, and by him shall be numbered, printed, filed and preserved in his office. (M. C., sec. 1326.)

Same as Charter, Art. III, sec. 28, which see, with note.

Sec. 1405. Repeal of—not to affect offense or penalty.—No offense committed and no fine, forfeiture or penalty incurred, previous to the time when the provisions of any ordinance, parts of an ordinance or resolution shall be repealed, shall be affected, released or in any way discharged, by such repeal; but the trial, conviction and punishment of all such offenses, and the recovery of such fines, forfeitures and penalties shall be had in all respects as if such provision had remained in force. (M. C., sec. 1327.)

See note to Charter, III, sec. 28.

Sec. 1406. Ordinance—repealed—revised—to control subsequent proceedings.—No action, prosecution, suit or proceedings, pending at any time any ordinance or part of an ordinance shall be repealed, shall be affected in any way by such repeal; but any such action, prosecution, suit or proceedings shall proceed, in all respects, as if such ordinance or part of ordinance, had not been repealed; except that any such action, prosecution, suit or proceeding, had or begun after the ordinances revised at the present session of the municipal assembly shall take effect, shall be conducted in conformity with the provisions of such revised ordinances and shall be, in all respects, subject to the provisions thereof so far as they are applicable. (M. C., sec. 1328.)

See sec. 1403, *supra*.

Sec. 1407. “Hereafter” and “Heretofore” defined.—Whenever the term “heretofore” occurs in any ordinance, it shall be construed to mean any time previous to the day when such ordinance shall take effect; and whenever the term “hereafter” occurs, it shall be construed to mean any time after such ordinance shall take effect. (M. C., sec. 1329.)

Same as statute: R. S. 1899, sec. 4155. For rules in general on construction of ordinances, see note to Charter, introductory to Art. III, sec. 26.

Sec. 1408. Plural number—how to be construed.—Whenever, in any ordinance or resolution words importing the plural number are used in describing or referring to any object, matter, parties or persons, any single object, matter, party or persons, shall be deemed to be included, although distributive words to that effect may not be used. (M. C., sec. 1330.)

Same as R. S. 1899, sec. 4157; referred to in 93 Mo. loc. cit. 41.

Sec. 1409. Number and gender—how construed.—When any subject, matter, party or person is described or referred to in any ordinance, by words importing the single number, or the masculine gender, several matters and persons, and females, as well as males, and bodies corporate as well as individuals, shall be deemed to be included. (M. C., sec. 1331.)

Same as R. S. 1899, sec. 4158. See *State ex rel. vs. Hostetter*, 137 Mo. 636.

Sec. 1410. Foregoing rules to apply in all cases—except when repugnant.—The rules prescribed in the last two sections shall apply in all cases, unless it shall be otherwise expressly provided in any ordinance, or unless there be something in the subject or context repugnant to such construction. (M. C., sec. 1332.)

See cases on Statutory Construction cited in R. S. 1899, note to sec. 4160.

Sec. 1411. Repealing ordinance repealed—does not revive former ordinance.—When an ordinance, repealing a former ordinance, clause or provision, shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it be expressly so provided. (M. C., sec. 1333.)

See note to Charter, Art. III, sec. 28.

Sec. 1412. Tenure of office—when repeal of ordinance to affect.—The tenure of any office, or accountability of any officer of the city, shall not be affected by the repeal of any ordinance, clause or pro-

vision, unless it be otherwise expressly provided in the repealing ordinance. (M. C., sec. 1334.)

See note to Charter, Art. III, sec. 28. In *State ex rel. vs. Longfellow*, 93 Mo. App. 364, 370, the court says of this section: "We apprehend that the purpose of the ordinance was to prevent the repeal of the term of an office created by one ordinance by repealing or amending another ordinance, the effect of which would be, by implication or by fair construction, to affect the term of the office created by the other ordinance, but not mentioned or referred to by the amendatory or repealing ordinance, and not that an ordinance creating an office could not be amended so as to eliminate the feature creating the office, without expressly declaring that to be the purpose and aim of the amendment, or that an ordinance creating an office could not be repealed and a new one enacted in lieu of it, leaving out the clause creating the office." See s. c. 95 Mo. App. 660, 666.

Sec. 1413. Bills embodying general ordinance provisions—submission to city counselor to approve form.—All bills embodying general ordinance provisions before final passage by the municipal assembly may be submitted to the city counselor or the associate city counselor, whose duty it shall be to examine the same without unnecessary delay and recommend such alterations or modifications in the form thereof, if any are necessary, as will make all such bills as altered or modified conform to the proper charter requirements as to the form of ordinances and to the general plan of the municipal [Revised] code, provided that nothing herein shall be construed as requiring bills not embracing general ordinance provisions to be so submitted. (M. C., sec. 1335.)

See also sec. 1369 of Rev. Code.

Sec. 1414. Reference to revised code sufficient.—In all official reference to any provision or provisions of the general ordinances, embodied in "The Revised Code of St. Louis," after said code shall have been adopted legally, as provided in ordinance number twenty-two thousand and forty-six, approved June twenty, nineteen hundred and five, it shall be sufficient to refer to said provision or provisions by section number or numbers, as the reference may require, of "The Revised Code of St. Louis." (Ord. 22594; see M. C., sec. 1336.)

GENERAL NOTE ON SUBJECT OF ORDINANCES: See note to Charter, Art. III, pages 308-311; and see p. 309 as to evidence of ordinance, when same to be pleaded and how, etc.

CHAPTER 16.

OF MARKETS.*

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| ART. | I. Of names and boundaries. |
| | II. Of location of stalls, stands and wagons. |
| | III. Of leasing and renting of stalls and stands. |
| | IV. Of market masters—appointment, powers and duties. |
| | V. Of rules and regulations. |
| | VI. Of meat shops. |
| | VII. Of regulations concerning the sale of game. |
| | VIII. Of regulations concerning the sale of perishable articles. |

*Power of the city to establish market places, and license, regulate, sell, lease, abolish or otherwise dispose of the same: Chart., Art. III, sec. 26, clause third. See also clause 7. As to duty of Mayor and assembly to establish, locate and regulate market places in cities of over 300,000, see R. S. 1899, secs. 6248, 6249. Ordinance regulations in pursuance of the charter are, when not unreasonable,

upheld: *St. Louis vs. Weber*, 44 Mo. 547; *Jackson vs. St. Louis*, 25 Mo. 37. But the city has no authority to lease out spaces on a street to produce dealers, etc.: *Schopp vs. St. Louis*, 117 Mo. 131, 135, and cases cited. Where realty is conveyed to the city to be used for the purpose of a public market, with the provision that if the city did not erect such market house within a year, others might upon the like condition, but with no further reservations or right of re-entry, it was held that after the city had erected and maintained a market house in pursuance of the terms of the deed, for a number of years, it could use the same for other municipal purposes: *Hand vs. St. Louis*, 158 Mo. 204.

Ordinances regulating markets and weights are an exercise of the police power: *Lamar vs. Weidman*, 57 Mo. App. 507.

ARTICLE I.

OF NAMES AND BOUNDARIES.

Sec. 1415. **City market.**—The lot of ground bounded on the north by O'Fallon street, east by Third street, south by Biddle street and west by Broadway, with the buildings thereon, shall constitute and be known as the city market. (M. C., sec. 1337.)

As to the rights of the city under the ordinance relating to the Biddle Street market and the contract with the Harney heirs, see *Harney vs. St. Louis*, 90 Mo. 214.

Sec. 1416. **Union market.**—City block number one hundred and twenty-one, fronting two hundred and twenty-six feet on the west side of Fifth street (Broadway), by a depth westerly of two hundred and seventy feet, bounded north by Morgan street, east by Fifth street (Broadway), south by Christy avenue, and west by Sixth street, with the buildings thereon, is hereby declared to be a public market, to be known and called the Union Market. (M. C., sec. 1338.)

Sec. 1417. **Soulard market.**—City block number three hundred and seventy-four, three hundred by one hundred and fifty feet, and bounded north by Carroll street, east by Seventh street, south by an alley, and west by Fulton street, and city block number three hundred and eighty-one, three hundred by one hundred and fifty feet, bounded north by Carroll street, east by Fulton street, south by an alley, and west by Decatur street, with the buildings thereon, shall be known as Soulard Market. (M. C., sec. 1339.)

Sec. 1418. **South market.**—The northeast quarter of the block bounded on the east by Main street, west by Second street, north by Schirmer street, and south by Franklin street, with the buildings thereon, shall be known as South Market. (M. C., sec. 1340.)

ARTICLE II.

OF LOCATION OF STALLS, STANDS AND WAGONS.*

Sec. 1419. **Wagon stands, etc., comptroller to locate.**—Authority is given the comptroller to locate wagon or market stands in such manner that those in the same business shall occupy contiguous spaces. (M. C., sec. 1341.)

*That stands and stalls can not be authorized by ordinance to occupy parts of the public street, see *Schopp vs. St. Louis*, 117 Mo. 131, 135.

Sec. 1420. **Market stands—regulations of.**—The sidewalks and space outside the market-houses of all markets are hereby appropriated and set apart for stands for the sale of vegetables or any other articles which under this chapter, are permissible to be sold outside the market-houses, at wholesale or retail, from tables, vehicles, or in any other manner. Each stand shall be made to occupy not less than eight nor more than twelve feet along the building line, nor more than three and one-half feet deep, except at Union Market on the north side of Christy avenue, which shall be eight feet in depth; provided, however, that at Union Market, on the Broadway (Fifth street) side, nothing herein shall be so construed as to interfere with the right of any occupants or tenants thereof to use for the purpose of receiving and shipping their goods, the space of five feet inside of the curb line of said Broadway, being the space now existing between said curb line and the row of iron posts which support the roofed covering over the sidewalk. (M. C., sec. 1342.)

Sec. 1421. **Markets—inner portions, how used.**—All the inner portion of all market-houses shall be and are hereby set apart for butchers' stalls; but when not needed for this purpose may be used under the direction of the comptroller for the sale of fresh, smoked or salted meats, bacon, ham, sausages, dressed fowls and all other kinds of provisions or goods, except fish. (M. C., sec. 1343.)

See *St. Louis vs. Freivogel*, 95 Mo. 533-539-540, as to this section.

Sec. 1422. **Market wagons—spaces between.**—All wagons attending any market shall, in taking their position at any curbstone, be separated at least three feet, in order to allow pedestrians to cross from one side of the street to the other. (M. C., sec. 1344.)

Sec. 1423. **Wood stands, etc.—where to be located.**—Eighth street, from Cass avenue to Mullanphy street, and Mullanphy street, from Eighth street to West Sixteenth street, and all that part of Broadway from Cass avenue to Howard street; also that portion of Cass avenue from Broadway to Ninth street; also the southeast quarter of the block in South St. Louis in which the South Market is located, are hereby set aside for the sale of coal, wood, hay, corn, oats and straw by the load, and no other place except those above mentioned shall be used as a stand for the sale of such articles. (M. C., sec. 1345.)

Sec. 1424. **Farmers' wagons—space reserved for.**—All that portion of Third street, on either side thereof, which is between Christy avenue and its intersection with Broadway, and all that portion of Broadway from its intersection with Third street north to Howard street, and all that portion of O'Fallon street from Collins street to Sixth street, is hereby set apart for farmers' and other wagons bringing produce to market for sale; provided, that a space of ten feet shall be kept vacant opposite each store or building, alternately, in such manner that there shall be a continuous space of twenty feet vacant opposite each of two of such stores or buildings for the use of vehicles conveying goods, wares or merchandise to and from the same, and it shall be the duty of the market master of the city market to strictly enforce the above provisions, and when necessary to summon a sufficient number of police to accomplish that object; provided, further, that farmers' wagons shall occupy the above space only under permission of the market master, and all persons owning or controlling space on Third street and on Broadway between the limits specified above, are forbidden to grant such right or to collect any toll therefor. (M. C., sec. 1346.)

ARTICLE III.

OF LEASING AND RENTING OF STALLS AND STANDS.

Sec. 1425. Market stalls, etc., not to be occupied without license—penalty.—No person without a lease or other proper permit from the comptroller or market master, or whose lease or legal permit shall have been forfeited, shall, for any purpose, occupy any stall or stand or wagon stand, in any market or market place. No person shall make or accept any transfer of any stand or stall or wagon stand, or occupy the same by virtue of such transfer, without the written consent of the comptroller, and any person who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than five nor more than fifty dollars for each offense. (M. C., sec. 1347.)

Sec. 1426. Market stalls, etc., letting time of.—It shall be the duty of the comptroller on the first Monday of January and July of each year to lease all the stalls inside the several city markets for the term of six months, and on the first Monday of May and November of each year he shall lease all other stands and stalls in said market and market places for a like term of time; provided, that before such leasing shall take place the comptroller shall locate, establish the terms of renting, and grade the prices of all such stands and stalls according to the different purposes on account of which they are occupied. (M. C., sec. 1348.)

Sec. 1427. Market stalls, etc., conditions of letting.—Such leasing and renting, of which notice of at least ten days of the time and place thereof shall be published in the papers employed by the city, shall be by auction, except that occupiers of stands and stalls and wagon stands who are not in arrears for rent shall be entitled to re-rent their respective stands and stalls and wagon stands, at the graded price, on complying with all other conditions and provisions of ordinances relating to such stall or stand and wagon stands; provided, that no person shall be allowed to rent more than two stands or stalls or wagon stands, in any market, nor re-lease or rent to others any portion of any stand or stands, wagon stand or stands, stall or stalls, without the approval of the comptroller, nor shall any occupier be entitled to the right of renting for a longer time than five years, nor shall stands whereon to sell meat by the quarter be rented for a longer time than four months from the first Monday of November in each year. (M. C., sec. 1349.)

Sec. 1428. Market stalls, etc.—rent of, how paid.—Every person bidding off or taking at its valuation any stall or stand, shall at the time of so doing pay to the comptroller the full amount of the semi-annual rent at which he has taken said stall or stand, and as soon as practicable shall execute the lease hereinafter provided for. If he fail to execute said lease when required to, or fails to pay all rents when due, or otherwise violates any of the provisions of this article, or any of the rules and regulations made in pursuance thereof in relation to stands or stalls, he shall forthwith forfeit such stand or stall, and all that has been paid thereon, without any other process of law. Renters of wagon stands shall

in all cases, be required to pay their rent semi-annually in advance. (M. C., sec. 1350.)

Sec. 1429. Market stalls, etc.—when vacant, how rented.—Vacant stands or stalls and wagon stands not rented as required in the foregoing sections, or which, by forfeiture to the city or any reason become vacant, may be rented for the best attainable price and term of time; provided, that stalls shall not be rented for less than one month; but no fees shall be exacted from farmers or gardeners for selling their produce in the market places or public streets from their vehicles. (M. C., sec. 1351.)

Sec. 1430. Leases—to what condition subject.—The renting of all stands and stalls and wagon stands, shall be subject to the conditions that the lease therefor may be cancelled by the city at any time after thirty days' notice to the lessee, and returning to him the proportionate amount of rent paid, according to the unexpired time of the lease. (M. C., sec. 1352.)

Sec. 1431. Market stalls, etc.—lease with security when required.—Every lessee of a stall or stand to be used for a longer period than three months, shall execute a lease therefor with two good securities, to be approved by the comptroller, for the payment of all rents semi-annually in advance, and the performance of all other obligations, under this article and the lease; and non-payment of any rent when due, or any other failure to comply with the conditions of the lease or this article by any lessee, shall work a forfeiture of said lease and the stall or stand. (M. C., sec. 1353.)

Sec. 1432. Market stands—contract of sale of—cancelled when.—The comptroller is hereby authorized for good and sufficient cause to cancel any contract made for stalls or stands, or wagon stands, and to relet the same, as by ordinance provided. (M. C., sec. 1354.)

Sec. 1433. Market stands—vacated—how.—The comptroller with the approval of the mayor, is hereby authorized to vacate and abolish any stand or stall and wagon stand in any city market as in his opinion the interests of the public or market may seem to demand; provided, that said vacating or abolishing shall always be done at the expiration of the lease or term for which the rent has been paid, and after at least thirty days' notice to the occupant thereof. (M. C., sec. 1355.)

ARTICLE IV.

OF MARKET MASTERS—APPOINTMENT, POWERS AND DUTIES.

Sec. 1434. Market masters—appointment—salaries—subordinates.—The several market masters of the markets herein named shall be appointed by the mayor and confirmed by the council, and hold their respective positions, as provided in section two, article four of the charter, and until their successors are duly appointed and qualified, and shall give bond to the city in the sum of one thousand dollars each, with two or more good and sufficient securities, owners of unincumbered real estate in the city, to be approved by the mayor and council, and shall receive as full compensation for their services, viz.: the market master of Union Market, one thousand dollars per annum; the market master of City Market, nine

hundred dollars per annum; the market master of Soulard Market, seven hundred twenty dollars per annum; the market master of South Market, seven hundred twenty dollars per annum; the number and salaries of the several market sweepers in said markets, who shall be appointed by the respective market masters, and confirmed by the comptroller, shall be as follows, viz.: Union Market, four sweepers at six hundred dollars each; City Market, two sweepers, five hundred forty dollars each; and for a period of not to exceed four months, commencing November first each year, the market master at City Market is authorized to appoint two additional assistants to act as weighers, to be approved by the comptroller, at a salary of not to exceed fifty dollars per month, each; Soulard Market, one sweeper at five hundred dollars; the South Market, one sweeper at five hundred dollars; to be in full compensation for their services per annum, all payable monthly. The market master of the Union Market is hereby authorized to designate one of the sweepers of said market to act as deputy market master of said market in his absence, and for whose official acts the market master shall be responsible. (M. C., sec. 1356.)

Sec. 1435. Duties of the market master.—It shall be the duty of each market master in the market for which he is appointed: First, to exercise a general supervision over the market-house and market place, and to enforce the regulations established for the government thereof; second, to assign places to wagons or persons attending the market and enforce order among them; third, to exercise a general care and custody of the market-house and all appurtenances thereof; fourth, to examine the quality of all articles offered for sale in the market, and to seize all blown, unsound, diseased, impure, or unwholesome articles exposed for sale; fifth, to examine weights and measures of all articles exposed for sale, and to seize all which are of less weight than represented by the seller according to the provisions of this article; sixth, to enforce order in the market place, and decide all disputes that may arise between buyer and seller touching the weight or measure of any article; seventh, to attend at the market every day during market hours; eighth, to receive from the comptroller printed tickets for rent of stands and stalls and wagon stands for short periods, and sign and deliver same to renters of stalls and stands, and to collect money therefor; ninth, to pay into the city treasury all moneys received by him on account of the city, at least once in each week. (M. C., sec. 1357.)

Sec. 1436. Powers of market masters.—To secure an efficient performance of his duties, each market master is invested with full power and authority to summarily enforce all ordinances, rules and regulations in all matters connected with the market for which he is appointed, and all persons are required to obey his rules, regulations and directions in all such matters. (M. C., sec. 1358.)

Sec. 1437. Market masters to superintend cleaning, etc.—The market masters shall superintend the cleaning of the market and market places for which they are respectively appointed, and cause the streets, footways and market places to be sprinkled with water whenever it shall be necessary to prevent and lay the dust, and for that purpose may use the water from the waterworks, and use the hose provided by the city. (M. C., sec. 1359.)

Sec. 1438. Market-houses—cleanliness of to be enforced.—The market masters shall cause the market-house and market places to which they shall be respectively appointed to be thoroughly cleaned, and

all the filth to be removed therefrom by the scavengers employed for that purpose by the city, and keep the footways and steps in the winter season clear of ice and snow. (M. C., sec. 1360.)

Sec. 1439. **Market masters, scales to be kept by—charge—no one else to weigh—penalty.**—Each market master shall keep as many scales and other implements for weighing, duly stamped and certified by the inspector of weights and measures, as may be necessary to conveniently do all the weighing in said market, and shall, whenever requested, weigh all articles belonging to marketers and others intended for sale, and shall charge five cents for each separate and single article, to be paid by the person or party requesting the same to be weighed, which fees shall be paid weekly into the city treasury. Any person who shall weigh an article of marketing within the market places, except the market master, or his legal deputy, and charge therefor, shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than twenty nor more than one hundred dollars for each offense. (M. C., sec. 1361.)

Sec. 1440. **Market masters—seizures by—sale of berries.**—It shall be the duty of the market master to seize all articles offered for sale in any market which are prohibited by ordinance, or which are exposed for sale without the venders having proper authority therefor under the ordinance; or where such article or thing is short in weight or measure according to the representation of the venders; all which articles or things so seized shall be forfeited to the city and sold at public outcry by the market master, and the proceeds paid into the city treasury; provided, that nothing in this article shall be so construed as to prevent the sale of every description or kind of berries and tender fruits by the package, and said package shall not be required to be gauged or stamped by the inspector of weights and measures, nor forfeited for short weight or measure, but shall be weighed or measured at the option of the buyer. (M. C., sec. 1362.)

Sec. 1441. **Market masters may remove certain persons—special policeman.**—It is hereby made the duty of each market master to order or remove from the market-house or market place, in a summary manner, any person who is guilty of any violent, turbulent, or disorderly conduct, or who shall in any way interfere with him or disturb the marketers, or buyers; or who shall violate or refuse to obey any ordinance, rules or regulations for the government or management of the markets and market places; or who shall expose as if for sale, sell or attempt to sell anything in the market, or market places, that is prohibited by ordinance; or who shall sell or offer for sale, or expose as if intended for sale, anything in the market or market place without first having obtained a license or other proper authority so to do, according to the spirit and intent of this chapter; and for the purpose of enabling the market masters of the several markets more effectually to carry out the provisions of this chapter, it shall be the duty of each respectively to apply for and obtain an appointment from the police commissioners as special policemen. (M. C., sec. 1363.)

Sec. 1442. **Offenders to be arrested.**—It is hereby made the special duty of all market masters and the police to arrest all persons found in the act of violating any of the provisions of this chapter, and bring them before the police justice of the district in which the market may be located, and upon information being filed by any other person that he has good reasons to believe and does believe that any person has been guilty of violating any of the provisions of this chapter, the police justice of the district in

which the market may be located shall issue his warrant to the marshal directing him to bring him the aforesaid offender, who shall be dealt with as in other cases of breach of city ordinance. (M. C., sec. 1364.)

Sec. 1443. **Penalty.**—Any person who shall violate any of the provisions of this chapter, or who shall fail to comply with any of the rules or regulations prescribed herein or established by virtue hereof, or who shall fail to obey any proper order of the market masters, respectively, in relation to the several matters under their charge or supervision, shall be deemed guilty of a misdemeanor, and upon conviction thereof, when no other penalty is prescribed in this chapter, shall be fined not less than five dollars nor more than one hundred dollars. (M. C., sec. 1365.)

ARTICLE V.

OF RULES AND REGULATIONS.

Sec. 1444. **Hours of.**—All the markets aforesaid shall be open for the sale of all meats, vegetables, victuals, provisions and all other articles allowed to be sold therein, from four until eleven o'clock a. m., and from two until ten o'clock p. m., every day during the year (Sundays excepted); provided, that it shall not be lawful for any market to be opened, or anything therein sold or exposed for sale on Sundays. (M. C., sec. 1366.)

Sec. 1445. **Lights to be kept.**—The market masters of all the markets are required to keep at least two lights burning in said markets respectively the whole of each night during the year. (M. C., sec. 1367.)

Sec. 1446. **Time of closing market-houses—how announced.**—Each market master shall be provided with a bell, and shall announce by the ringing thereof the closing of the market-house at least ten minutes before the time for closing. (M. C., sec. 1368.)

Sec. 1447. **Lessees of stalls—duties of, on closing market.**—Every lessee or occupier of a stall or stand in either market shall, within thirty minutes after the ringing of the bell as aforesaid, cause his vegetables, provisions, and vehicle if he has one, or other things to be removed from the market place, and his stall or stand to be thoroughly cleaned, and all animal or vegetable offal and rubbish to be removed from the market place, and each butcher shall cause his tables, meat block, and other fixtures to be thoroughly scraped and cleaned. (M. C., sec. 1369.)

Sec. 1448. **Hydrant to be provided—sales must be during hours.**—Each market shall be supplied with a hydrant for the use of persons attending the market, and no provisions or other thing shall be sold in the market except during market hours. (M. C., sec. 1370.)

Sec. 1449. **Regulations concerning meat sales.**—No person except the lessee of a stand or stall shall sell or offer for sale in the market any fresh or salted meat of any kind, and no person being the lessee of a stall or stand shall sell the same by the quarter or in less quantities than one-quarter, except at the stall of which he is lessee, and such sales shall otherwise be made in conformity with the regulations prescribed by this chapter. (M. C., sec. 1371.)

Sec. 1450. Stands—restrictions in use of.—Any stand or stall outside of any market-house may be used or employed for the sale of poultry, game, vegetables, fruits, coffee, or other articles, except fresh meat. (M. C., sec. 1372.)

See *St. Louis vs. Freivogel*, 95 Mo. 533, 1. c. 539.

Sec. 1451. Sales—outside of market.—Nothing in this chapter shall be construed to prevent any farmer or producer from selling his meat by the quarter, or any person who follows the business of packing beef and pork, from selling bacon, shoulders, hams and sides of their own curing, or spare-ribs or sausage meat in the winter months, or any person from selling wild game not otherwise prohibited; provided, that such sales are made outside the market and market places. (M. C., sec. 1373.)

Sec. 1452. Sale of diseased animals forbidden.—No person shall sell or expose for sale in the market or any other place within the corporate limits of the city any sick or diseased live animals for the purpose and with the design that the same shall be slaughtered and used for food, knowing or having reason to believe the same to be sick or diseased. (M. C., sec. 1374.)

Sec. 1453. Sale of unsound meat etc. prohibited—penalty.—No person shall expose or offer for sale in market or any other place within the corporate limits of the city the flesh of any animal which was sick, overheated or run down by dogs or otherwise at or before the time the same was butchered or slain, or which died a natural death, or was killed by accident, casualty or otherwise than the usual manner of slaying animals for food, nor shall any person sell, expose or offer for sale in this city any putrid, blown, plated, raised, stuffed or unsound meat, flesh, eggs, poultry or other articles of food, nor shall any person in this city sell, expose or offer for sale the flesh of any bull, boar, ram, dog, cat or other animal not commonly deemed wholesome for food. The market master shall seize any article in this section mentioned which he may find in the market and cause the same to be condemned, and removed, and if the person offering the same be lessee of the stall or stand his lease shall be forfeited and he shall never be permitted to lease or occupy a stall or stand thereafter in any market, and such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars. (M. C., sec. 1375.)

Sec. 1454. Market place—animals not to be driven into—offal to be kept off.—No person shall ride, lead, drive or place any horse or other animal into or upon any market, market place, or footway pertaining thereto, or kill or slaughter any animal in market, or throw or deposit any animal or vegetable offal, filth, meat, dead animal or fowl, fish or any nauseous substance, in any market-house or market place, or streets or street or sidewalks adjoining said market or market places. (M. C. see 1377.)

As to keeping offal, garbage, filth and dead animals off streets and sidewalks, see R. C., secs. 685, 686, 1198.

Sec. 1455. Market place—vehicles to be removed from, when.—Whenever any person shall have sold or disposed of the commodities brought by him to market for sale, he may be required to remove his vehicle from the market place forthwith. (M. C., sec. 1377.)

Sec. 1456. Refreshments, where sold.—Coffee and other refreshments may be served at such stands, in any of the city markets, as may

be designated by the market master and approved by the comptroller, subject to the provisions of this article, but no person shall, in the market, sell or give away any wines or spirituous or fermented liquors. (M. C., sec. 1378.)

Sec. 1457. Stalls—how painted by lessees.—Each butcher renting stall in any market shall, as a condition of such leasing, be bound semi-annually to paint his stall such a color and at such a time as he shall be required by the comptroller; provided, that all stalls in each market shall be of a uniform color. (M. C., sec. 1379.)

Sec. 1458. Fires in without permission, prohibited.—No person shall, during market hours, kindle or burn, in or about any market, any fuel without permission from the market master, or in any other place than that designated by him, except that charcoal, under the direction of the market master, may be burned in movable earthen or metallic vessels, so constructed and placed as effectually to prevent danger to any wood work in the vicinity or inconvenience to persons passing. (M. C., sec. 1380.)

Sec. 1459. Lounging forbidden.—No person not having lawful business in market shall sit, lounge, stand, walk or lie in or about the market place. (M. C., sec. 1381.)

Sec. 1460. Market place—intoxicated persons forbidden access to.—No person in a state of intoxication shall go upon a market place. (M. C., sec. 1382.)

Sec. 1461. Market place—dogs, etc., to be excluded from.—No person shall bring, or suffer to come with him, into or upon any market place, during market hours any dog or unruly or dangerous animal. (M. C., sec. 1383.)

Sec. 1462. Animals—full grown—where to be sold.—No person shall sell, expose or offer for sale, in market, any horse, cow, ox, mule, jack or hog, or other full-grown animal, except at such places as the market master may direct. (M. C., sec. 1384.)

Sec. 1463. Butter, etc.—by what weight sold.—Butter, lard and honey sold in market shall be sold by weight, avoirdupois. (M. C., sec. 1385.)

Sec. 1464. Sale—exposure for, what to constitute.—Whenever any article shall be exhibited in market, as if the same were intended for sale, whether sold or not, or directly offered for sale or not, such exhibition shall be held to be an exposure of the same for sale, and an offer to sell within the meaning of this chapter. (M. C., sec. 1386.)

Sec. 1465. Market stall—grounds of forfeiture of lease of.—If the lessee of any stand or stall fail for six consecutive days to expose for sale, at his stand or stall, articles usually sold thereat, unless such failure be proven to the satisfaction of the comptroller to have been caused by sickness, or other unavoidable circumstances, his lease shall be forfeited. (M. C., sec. 1387.)

Sec. 1466. Market stall—further grounds of forfeiture of lease of.—If any lessee or renter of any stall or stand, or wagon stand,

be twice convicted of violating any ordinance in relation to markets, his lease shall be adjudged to be forfeited. (M. C., sec. 1388.)

Sec. 1467. Article—application of provisions of.—The provisions of this article are declared to apply to all markets in this city, except where the same are confined in terms or by context to a particular market; and the market masters of private markets are invested with the same power, and required to perform the same duties as the market masters of the markets owned by the city are invested with and required to perform. (M. C., sec. 1389.)

Sec. 1468. Sales—further regulations on.—No grocer, huckster or other person shall sell or offer for sale in any market or market place any produce, vegetables or fruits, or other articles purchased within the city limits during market hours, and all farmers, gardeners and producers are hereby authorized to sell it during market hours in any market subject to the provisions of this chapter. (M. C., sec. 1390.)

Sec. 1469. Structures — as independent rooms forbidden.—The comptroller shall not allow any shanty or structure in the nature of an independent room to be built in any market place. (M. C., sec. 1391.)

Sec. 1470. Comptroller—general supervision to be exercised by—what structures prohibited.—All proceedings for the collection and return of market rents, for the enforcement of ordinances and other proper regulations for the control and management of the markets and business therein, for the appointment, location and leasing of all stalls and stands, and for the construction of all tables, fixtures, repairs, changes and improvements, and the employment of all assistants therein shall be under the supervision of the comptroller; but no shanties, inclosures, stands, fixtures or improvements shall be erected or permitted in the market or market places that are shabby, unsightly or inconsistent with the general character of said markets, respectively, or their improvements or surroundings. (M. C., sec. 1392.)

Sec. 1471. Comptroller—further regulations by, authorized—duties of market-master.—In addition to the rules and regulations prescribed by this chapter, authority is hereby given to the comptroller, and it is made his duty, to make all other needful rules and regulations touching the designation, location and arrangement of all stalls and stands, and for the arrangement, stationing and removal of all wagons, carts and other vehicles used or brought within the limits of the respective market places, and for the control and management of the business in said market not inconsistent with this chapter; and it shall be the duty of the several market masters to carry out and enforce all such rules and regulations provided for the markets as herein prescribed. (M. C., sec. 1393.)

Sec. 1472. Regulations—publication of, to be made.—Immediately after the making of any rules and regulations for either of the markets it shall be the duty of the register to cause such rules and regulations to be printed in hand-bill form in sufficient numbers for posting, and deliver the same to the market masters, respectively, to be posted, and they shall post up the same in the most public and conspicuous places in and about the several markets and market places, and each market master shall keep posted up in a conspicuous place in his office a copy of all the rules and regulations made in pursuance thereof for each and all the market houses and market places, respectively, within the city. (M. C., sec. 1394.)

ARTICLE VI.

OF MEAT SHOPS.*

Sec. 1473. **License to conduct necessary.**—No person, persons or copartnership of persons shall open or keep a meat shop in the city without first having obtained a license therefor, and any person, persons or copartnership of persons doing business as a meat shop keeper or keepers shall pay an annual license of fifty dollars in advance; and said annual license shall be payable on the first day of July of each year; and each license issued shall date from the first day of July of each year; which license shall authorize and empower such person, persons or copartnership of persons to sell in their shops all kinds of fresh and salt meat, fresh and salt fish, sausage and sausage meat whether made by them or not, and also all kinds of fowl and game in their proper seasons that is not prohibited being sold or offered for sale by any ordinance of this city or law of this state, all kinds of vegetables or fruits, in large or small quantities, for one year from the first day of July, preceding its issuance, and it is hereby provided that the owners of meat shops who have paid their license may be permitted to deliver meat in a wagon or otherwise, without taking out an additional license therefor. If any person, persons or copartnership of persons shall exhibit for sale or offer for sale any of the above enumerated articles (vegetables and fruit excepted) in any market, stall, place or shop in this city, whether sold or not, such person, persons or copartnership of persons shall be considered to be meat shop keepers, as herein defined, and shall be adjudged to be such in the full meaning of this section; and, provided, further, that nothing in this section shall be construed as to include grocers who sell ham, shoulders, dried beef, bacon, salt fish and smoked sausage. (M. C., sec. 1395.)

Under its charter provisions the City of St. Louis has authority to impose the license tax: *St. Louis vs. Freivogel*, 95 Mo. 533 and cases cited there. Such a license held not invalid as containing discriminations in favor of grocers and because classifying butchers as meat-shop keepers: *St. Louis vs. Freivogel*, *supra*; but the license must be substantially uniform in its application and operation, throughout the city, and not operate unequally in certain sections of the city: *St. Louis vs. Spiegel*, 90 Mo. 587 (reversing 16 Mo. App. 210); *St. Louis vs. Spiegel*, 75 Mo. App. 145 (reversing 8 Mo. App. 478).

While a butcher is one who slaughters and dresses for market, yet an ordinance may enlarge the use of the word to include the keeper of a meat-market: *Rockville vs. Merchant*, 60 Mo. App. 365. An occupation license for revenue purposes (meat-shop license in this case), issued to a firm, is a protection to one of its members who continues to prosecute the business at the old stand upon the retirement of his co-partner from the business, where there is nothing in the ordinance itself to indicate a different purpose: *St. Charles vs. Hackman*, 133 Mo. 634, 644.

Sec. 1474. **License to contain what—register—transfer.**—Every license shall contain the name of the person in whose favor it is issued, and shall designate the location of the meat shop. The license collector shall keep a register of all such licenses, and no license shall be

*Charter authority for city to establish and regulate: Art. III, sec. 26, clause third; see next note. Regulation of meat shops by the city is within its powers, if such regulations are not unreasonable: *St. Louis vs. Weber*, 44 Mo. 547. See also *St. Louis vs. Delassus*, (sup. ct. July 2, 1907, not at this writing reported).

transferred, nor the location of the meat shop changed, without the written consent of the license collector, and the approval of the comptroller indorsed on said license; provided, that no such transfer shall be made except for the bona fide successor in business of the holder of such license desired to be transferred. The license shall be and remain during its continuance posted in some conspicuous place in the meat shop. (M. C., sec. 1396.)

Sec. 1475. **Meat shop—hours on Sunday.**—Any meat shop or market may be kept open on Sunday morning until nine o'clock a. m., for the sale of the articles described in section 1473. (M. C., sec. 1397.)

See case cited in note to next section.

Sec. 1476. **License—penalty for keeping shop without.**—Any keeper of a meat shop who shall fail, first to obtain any license therefor, or shall fail to keep said license and all transfers thereof posted up in his shop, or shall open said shop or sell therein, any article on a Sunday after nine o'clock a. m., shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars for each and every offense. (M. C., sec. 1398.)

This section was attacked as unconstitutional on several grounds, but was sustained as valid by the Supreme Court in the recent case of *St. Louis vs. Delassus* (July 2, 1907, not at this writing reported).

Sec. 1477. **Shops to be kept clean.**—Every person who is duly licensed as herein required shall keep his meat shop or stand properly cleaned and free from all foul smells and nuisances of every description, and on failure thereof shall be deemed guilty of a misdemeanor, and on conviction thereof be fined not less than five nor more than fifty dollars for each offense. (M. C., sec. 1399.)

Sec. 1478. **Shops under control of board of health.**—All meat shops shall be under the control of the board of health, who shall have power, by a majority of the board, to declare any one of the same a nuisance for a good and sufficient cause, which finding when recorded in their proceedings and a copy thereof served upon the party licensed, shall operate as a canceling of his license and a prohibition of all sales thereunder. (M. C., sec. 1400.)

Sec. 1479. **Principal of meat shop.**—Every person, whether principal or agent, who transacts the business of a meat shop shall be deemed a principal as far as the penalties of this article and his liabilities thereto are concerned. (M. C., sec. 1401.)

Sec. 1480. **Article excludes sausage-makers.**—Nothing in this article shall be construed as applying to persons manufacturing sausages, who do not sell or dispose of any other kind of fresh meat; and provided, said persons shall have paid a manufacturer's license. (M. C., sec. 1402.)

ARTICLE VII.

OF REGULATIONS CONCERNING THE SALE OF GAME.

Sec. 1481. **Game—when not to be exposed or sold.**—No person shall sell or expose for sale in any market, street, lane, alley, booth, cellar, store, or in any other place in the city, any pheasant, quail or partridge, between the first day of January and the first day of October; any woodcock between the tenth day of January and the first day of July; any prairie chicken, grouse or heath hen, or wild turkey, between the first day

of February and the fifteenth day of August; any wild buck, doe or fawn, or fresh venison, between the first day of February and the first day of October. (M. C., sec. 1403.)

The subject of the sale of game is largely affected by the state game laws which cover the subject: Laws 1905, pp. 159-171, amended, and act in lieu thereof passed Session Laws 1907, pp. 277-285.

Sec. 1482. **Penalty.**—Whosoever shall offend against any of the provisions of this article, by selling or offering to sell, or by exposing for sale or having in his custody any of the birds or game therein prohibited, or any fresh venison, within the time prohibited and within the city, shall for each of the birds, and for each head of game, and each piece of fresh venison so sold, or exposed for sale, or in his possession, on conviction thereof, forfeit and pay a fine of not more than ten dollars, to be recovered as other penalties for violation of city ordinance, one-half of which is to be paid to the informer and the other half into the city treasury, which said fine and costs shall be paid forthwith, and upon a failure to pay the same, the marshal shall commit the offender to the city workhouse as in similar cases. (M. C., sec. 1404.)

ARTICLE VIII.

OF REGULATIONS CONCERNING THE SALE OF PERISHABLE ARTICLES.

Sec. 1483. **What perishable vegetables and fruit to be sold only in original packages at depots.**—Receivers of potatoes, onions, cabbage, apples, pears, oranges, lemons, grapes, watermelons, bananas and other perishable goods are prohibited from selling the same at railroad depots, upon railroad tracks, and public landings, in any but original packages and they are prohibited from selling the same to any person or persons except to licensed dealers in said commodities. (M. C., sec. 1405.)

Sec. 1484. **Same—to be sold at regular place of business.**—It shall be unlawful for those who purchase said commodities at railroad depots, railroad tracks and public landings to resell any such goods at said depots, on said tracks or said landings, except in original packages, but they must remove same and sell them only at a regular place of business. (M. C., sec. 1406.)

Sec. 1485. **Sale at place received required.**—It shall be unlawful for any person or persons to sell such commodities at any other depot, track or landing than at the depot or landing where same was originally received. (M. C., sec. 1407.)

Sec. 1486. **Penalty—exceptions.**—Any person violating the provisions of this article shall, upon conviction, be fined not less than ten dollars, nor more than fifty dollars. And in default of payment suffer imprisonment in the jail prison for not less than five nor more than thirty days; provided, that nothing herein contained shall apply to itinerant venders who peddle fruit from baskets around and within railroad passenger depots and steamboat landings. (M. C., sec. 1408.)

CHAPTER 17.

OF MAYOR.

Sec. 1487. **Salary.**—The mayor shall receive a salary of five thousand dollars per year, payable monthly. (M. C., sec. 1409.)

No deduction from the mayor's salary can be made because he is absent from the city on private business: *Bates vs. St. Louis*, 153 Mo. 18.

Sec. 1488. **Mayor's secretary, assistant secretary, stenographer, page and janitor—tenure.**—The mayor is authorized to employ five suitable persons to act as mayor's secretary, assistant secretary, stenographer, page and janitor, who shall hold office at the pleasure of the mayor and may be removed and discharged by the mayor at any time. (Ord. 22066, amending M. C., sec. 1410.)

Sec. 1489. **Same—salaries.**—The salary of the secretary of the mayor shall be twenty-five hundred dollars per annum; the salary of the assistant secretary shall be fifteen hundred dollars per annum; the salary of the stenographer shall be nine hundred dollars per annum; the salary of the page shall be six hundred dollars per annum; the salary of the janitor shall be sixty dollars per month; all of said salaries to be paid monthly. (*Ib.*, amending M. C., sec. 1411.)

Sec. 1490. **Mayor to convene municipal assembly—organization of new administration.**—The mayor shall immediately after an election issue his proclamation convening the municipal assembly on the Saturday succeeding such election, for the purpose of organizing a new administration and the installation of the officers elect. (M. C., sec. 1412.)

Sec. 1491. **Municipal assembly to determine who elected mayor—notice of installation of mayor.**—The municipal assembly, when so convened, shall proceed to ascertain from the poll books of the several wards and certificates of the judges, who has been elected mayor, and shall give notice to the person elected that on the Tuesday following said Saturday, or on some other day to be designated by the municipal assembly, at twelve o'clock noon, in the chamber of the house of delegates at the city hall, in the presence of the municipal assembly, he will be installed mayor of the City of St. Louis. (M. C., sec. 1413.)

Contested election must be in circuit court: *State ex rel. vs. Hough*, 193 Mo. 615, 640.

Sec. 1492. **Installation of mayor.**—Upon the day designated the municipal assembly shall meet for the purpose aforesaid, when the oath of office prescribed by the charter, shall be administered to the mayor elect. (M. C., sec. 1414.)

Sec. 1493. **Duties and powers.**—The mayor shall from time to time give the assembly information relative to the state of the city, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city, and shall submit with his message to the municipal assembly all annual reports of officers. He shall take care that the laws of the state and the ordinances of the city are respected and enforced within the city and may remit fines, costs, forfeitures and penalties duly imposed

for the violation of any ordinance, and shall make a report of the same to the assembly at every session thereof. He shall have power to appoint a competent person or persons to examine the affairs of any department or departments whenever he shall deem it necessary. (M. C., sec. 1415.)

This section is a literal repetition of the Charter. Art. IV, sec. 16. As to remission of fines, etc., see also *infra* sec. 1497 and note.

Sec. 1494. Who acts as mayor in case of absence—compensation, etc.—The president of the council shall perform the duties whenever and so long as the mayor from any cause is unable to perform his official duties. If the mayor and the president of the council are both absent from the city, or otherwise disabled from performing the duties of mayor, the speaker of the house of delegates shall, for the time being, discharge the duties of said office, and either of them while acting as mayor shall receive the same compensation as the mayor. (M. C., sec. 1416.)

Same as Charter, Art. IV, sec. 17.

The compensation of the mayor is made the standard by which the officer who in his absence acts for him, is to be measured, and nothing more. The compensation of the mayor is not to be reduced because of his absence: *Bates vs. St. Louis*, 153 Mo. 18, 22.

Sec. 1495. General power of supervision—adjust differences between officials—enforce contracts, etc.—The mayor shall have a general supervision and control over all city officers, and may, whenever he shall see fit, examine into the condition of their respective offices, the books, papers and records therein, the manner of conducting their official business, and may call upon any officer, clerk or deputy for information in relation to any matter pertaining to his office. All questions of difference between officers of the city affecting their relative powers and duties, may be referred by either of them to the mayor, who shall examine and determine such questions, and his decision shall be final as between such officers. The mayor shall see that the contracts and agreements with the city are faithfully kept and performed, and to this end he shall cause legal proceedings to be instituted and presented against all persons or corporations failing to fulfill their agreements with the city. (M. C., sec. 1417.)

The mayor performs all acts required of the county court by Chap. of Rev. St. entitled, "Coroners and Inquests": Laws 1877, p. 192.

Sec. 1496. May call special sessions of assembly.—The mayor may, by proclamation, call special sessions of the assembly, giving not less than three days' notice, and shall specially state to them, when assembled, the objects for which they have been convened, and their action shall be confined to such objects. (M. C., sec. 1418.)

Same as Charter, Art. IV, sec. 18. See note thereto.

Sec. 1497. Fines and executions under control of.—In exercising the power to remit fines, costs, forfeitures and penalties imposed for violation of any ordinance the mayor is authorized to remit the same conditionally, when in his judgment such action shall be deemed expedient, and authority is also conferred on the mayor to control all executions issued by the police courts and recall the same and grant a stay of execution in any case on such terms and conditions as the public welfare shall demand. (M. C., sec. 1419.)

Chart., Art. IV, sec. 16, provides that the mayor "may remit fines, costs, forfeitures and penalties duly imposed for violation of any ordinance, and shall make a report of the same to the assembly at every session thereof." Pardons being in derogation of law, to be valid must accurately describe the offense in-

tended to be forgiven; a writing by a mayor licensing the person named to remain in town so long as he shall behave himself well, is neither a pardon nor a remission of a fine to which the writing in no way refers: *Ex parte Higgins*, 14 Mo. App. 601 (memorandum opinion). The authority of the mayor to remit a fine can only be exercised after the fine has been imposed; and what amounts to an illegal permit may be compelled by mandamus to be revoked by any citizen: *State ex rel. vs. Noonan*, 59 Mo. App. loc. cit. 529. As to the power of police justices to remit fines or to reprieve, see note to R. C., sec. 1308.

Sec. 1498. Powers to renew bond—effect of failure to renew.

—The mayor shall have power to order the renewal of any bond held by the city, from any person, firm or corporation in pursuance of an ordinance, whenever in his judgment said bond has become or is likely to become impaired through any cause whatsoever. A failure to renew said bond by the parties interested, to the satisfaction of the mayor, within fifteen days after date of notification to renew, shall operate to work a forfeiture of all the rights and privileges granted by the city under the ordinance of which said bond forms a part. (M. C., sec. 1420.)

Sec. 1499. Duty on being served with process.—Whenever any process or notice shall be served on the mayor in any legal or other proceeding against the city, or in which the city is a party, he shall immediately deliver the same, or a sufficient notice thereof, to the city counselor, in order that the same may be attended to. (M. C., sec. 1421.)

Sec. 1500. Power as to nuisances.—Whenever in the opinion of the mayor, a nuisance exists on public or private property, or whenever a nuisance has been so declared by ordinance, or resolution of the board of health, he is authorized to abate and remove such nuisance and the cause thereof in a summary manner, at the cost of the owner or occupant of the premises wherever the nuisance or cause thereof may be, and for that purpose may enter upon and take possession of any premises or property where such nuisance may exist or be produced. (M. C., sec. 1422.)

Chart. Art. III, sec. 26, clause sixth.

Sec. 1501. Proclamation in case of epidemic.—Whenever it shall come to the knowledge of the mayor that any malignant, infectious or contagious disease or epidemic is prevalent in the city, or will probably become so, he shall make proclamation of such fact to the inhabitants. (M. C., sec. 1423.)

Charter Art. XII, sec. 8; and see Rev. Code, sec. 633, which is the same as said Charter section.

Sec. 1502. Powers of arrest.—The mayor, when he has good cause to believe that an offense has been or is about to be committed against law or ordinance, may summon and examine witnesses in relation thereto, and upon proper affidavits may issue a warrant for the apprehension of any offender against law or ordinance, which warrant shall be returnable before one of the police justices, and shall be tried as warrants issued by that officer. (M. C., sec. 1424.)

Sec. 1503. Powers in cases of riot.—The mayor shall have power to call to his assistance the city police, the military of the city and citizens to assist him in preventing or quelling any riot, rout, unlawful assembly or breach of the peace, and all persons so called out by him shall be subject to his orders, while on the duty to which they are called. (M. C., sec. 1425.)

Charter provisions as to riots see Art. III, sec. 26, clause ninth and note; Riotous assemblies forbidden: R. C., sec. 1536.

Sec. 1504. Powers in secret service.—The mayor shall have power to take such secret measures as he may deem necessary for the detection and apprehension of offenders against law or ordinance, but all expenditures of money in relation to such services shall be paid out of the fund allowed the mayor for expenditures on account of secret service and removal of paupers. (M. C., sec. 1426.)

Sec. 1505. Secret service fund.—For expenditures on account of secret service, assisting and removal of paupers, the mayor shall draw his requisition on the auditor, approved by the comptroller, and the auditor shall thereupon draw his warrant on the treasurer for the amount required, and charge the same to appropriation for contingent expenses; provided, that the amount so expended shall not exceed the sum of twelve thousand five hundred dollars in any one year. (M. C., sec. 1427.)

Sec. 1506. Approval of bonds.—The mayor shall approve the bonds of all appointed and elected officers; also, bonds of constables in the city and all other bonds to the City of St. Louis, except in such cases as may be otherwise provided by ordinance or charter. (M. C., sec. 1428.)

Approval of bonds, see Charter, Art. IV, sec. 4; and see also Rev. Code, secs. 1677 to 1684. As to constables see note to sec. 1678; Scheme, sec. 15.

Sec. 1507. Execution of appeal and other bonds.—The mayor shall execute all appeal bonds and other bonds which by law or ordinance are required to be executed by the city. (M. C., sec. 1429.)

Charter, Art. XVI, sec. 6.

Sec. 1508. To report violations of duty.—The mayor shall report to the council all violations or neglect of duty on the part of any city officer which may come to his knowledge. (M. C., sec. 1430.)

Sec. 1509. Enumeration of officers to be appointed by.—The mayor shall appoint, subject to confirmation by a majority of the members of the council, at the times provided, by the charter and ordinances the following officers, who shall hold their respective positions during the period provided by the charter and ordinances, and until their successors shall have been duly appointed and qualified: A street commissioner, sewer commissioner, water commissioner, harbor and wharf commissioner, park commissioner, gas commissioner, when necessary; [license commissioner*], health commissioner, commissioner of supplies, commissioner of public buildings; five commissioners on charitable institutions, superintendent of workhouse, superintendent of house of refuge,** superintendent of fire and police telegraph, superintendent of city hospital, superintendent of female hospital, superintendent of insane asylum, superintendent of poorhouse, superintendent of quarantine, when necessary; city counselor, associate city counselor, second associate city counselor; assistant city counselor†, assessor and collector of water rates, city attorney, assistant city attorney for second district police court, assistant city attorney for police court south of Arsenal street, a police justice for each of the police courts of the city, jailor, one district assessor for each assessment district, chief of the fire department, milk inspector, city chemist, two regular practicing physicians and a commissioner of police to serve as members of the board of health, one weigher of scales for each of the public scales established by ordinance, one general inspector and measurer of lumber, and such deputy inspectors and measurers as may from time to time be necessary, inspector of boilers

and elevators, and two members of the board of engineers; one market master for each of the markets duly established, a clerk for each of the police courts, and such other officers as he may by ordinance be required to appoint. (M. C., sec. 1431.)

For list of appointees of Mayor to be appointed under ordinances see index to Rev. Code, under title "Mayor"; for list appointed under Charter provisions, see that title in Charter Index.

*The license commissioner's office was by statute expunged and his duties transferred to the license collector, an elective officer created by the same act; see note to Chap. 30 of R. C. and to sec. 2104 and following.

**Name of House of Refuge changed to "St. Louis Industrial School;" ord. 22145, R. C. sec. 1785. See next note.

†By ord. 23150 (enacted after the Rev. Code) a Second Assistant City Counselor is also to be appointed.

Sec. 1510. To appoint managers of House of Refuge.—The mayor shall also appoint, with the advice and consent of the council, four competent persons, who, with the mayor, shall constitute a board of managers of the St. Louis House of Refuge. (M. C., sec. 1432.)

By ord. 22145, approved Nov. 21, 1905, it was provided that the House of Refuge should be known as "St. Louis Industrial School," but that no effect except to change the name be given to the enactment. See R. C. 1785. The mayor by statute is ex officio a member of the board of managers and he shall appoint the other four members; R. S. 1899, Art. XXI, p. 2553, sec. 1, set out in "State Laws for St. Louis," herein, on p. 162.

Sec. 1511. To appoint city surveyors.—The mayor may also appoint subject to confirmation by a majority of the members of the council, any number of competent persons who shall be civil engineers, as city surveyors. (M. C., sec. 1433.)

As to City Surveyors, see Rev. C., sec. 235-238; also Scheme, sec. 16.

Sec. 1512. Council may prefer charges against—procedure.—The council shall have power at any time to prefer charges against the mayor for violating any official obligations, and should any such charges be preferred against the mayor, the council shall proceed at once to investigate and decide the same as provided by charter; and should the mayor be by the council removed from office, a copy of the decision shall be filed in the office of the register, and the president of the council shall be ex-officio mayor for the time being and until a successor is elected and qualified, and he shall issue a proclamation ordering an election to fill the vacancy in the office of mayor caused by such removal, in the manner provided by the charter and ordinances of the city; provided, however, that the mayor shall not be removed from office except by a two-thirds vote of all the members of the council, five days' notice thereof, and an opportunity to be heard by council being given to said officer. (M. C., sec. 1434.)

Chart. Art. IV., sec. 12.

Sec. 1513. Vacancy in office of mayor—how filled.—Whenever any vacancy shall happen in the office of the mayor from death, resignation or any other cause, the president of the council or the speaker of the house of delegates, ex officio exercising the duties of mayor, shall within thirty days' time from the time such vacancy shall occur, issue his proclamation directing a special election to be held to fill said vacancy, giving five days' notice of the time and place of holding such election. (M. C., sec. 1435.)

Charter Art. IV., sec. 13.

Sec. 1514. Special election for, how held—exceptions.—Such election shall be held in accordance with the ordinances and under the regulations prescribed for holding elections; provided, however, that no

such special election shall be held in the event that such vacancy shall happen within six months of the expiration of the time for which the mayor whose office had become vacant had been elected. (M. C., sec. 1436.)

See Charter IV, sec. 13; also R. C., sec. 1689.

CHAPTER 18.

OF MISDEMEANORS.

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| ART. | I. | Of offenses against public morals and decency. |
| | II. | Of offenses against public order and peace. |
| | III. | Of offenses affecting public safety. |
| | IV. | Of miscellaneous offenses. |
| | V. | Of smoke and smoke abatement. |
| | VI. | Of vagrants. |
| | VII. | Of dogs. |
| | VIII. | Of penalties, fines and forfeitures. |

ARTICLE I.

OF OFFENSES AFFECTING PUBLIC MORALS AND DECENCY.

Sec. 1515. **Drunkenness in public places prohibited.**—Any person who shall, in this city, be found in a state of intoxication, in any highway, thoroughfare or other public place, to the annoyance of any citizen or person, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than three nor more than twenty dollars. (M. C., sec. 1437.)

Public drunkenness may be prohibited by ordinance; the exhibition of one's self in a condition tending in and of itself to degrade the public morals, annoy and inconvenience the citizens in the discharge of their daily duties, and destroy the peace, comfort and well being of society is an offense which is the proper subject of police regulation: Gallatin vs. Tarwater, 143 Mo. 40, 45; and sufficient support for such an ordinance is found in the general police power of cities: Green City vs. Holsinger, 76 Mo. App. 567, 569. Lebanon vs. Gordon, 99 Mo. App. 277. But drunkenness is not *per se* the subject of legislative prohibition and can be regulated by municipalities only where its existence in the individual is at a place or under conditions where it annoys others; and a sweeping regulation interdicting, under a penalty, drunkenness generally, is an invasion of the inalienable rights of the citizen: St. Joseph vs. Harris, 59 Mo. App. 122. See also note to R. C., sec. 1632.

Sec. 1516. **Indecent exposure or dress, etc., or indecent literature or permitting immoral plays, etc., prohibited—penalty.**—Any person who shall, in this city, appear in any public place, in a state of nudity, or in a dress not belonging to his or her sex, or in an indecent or lewd dress, or shall make an indecent exposure of his or her person, or be guilty of an indecent or lewd act of behavior, or shall exhibit, sell or offer to sell any indecent or lewd book, picture or other thing, or shall exhibit or perform, or permit to be exhibited or performed, upon premises under his or her management or control, any indecent, immoral or lewd play or other representation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten nor more than three hundred dollars. (M. C., sec. 1438.)

Sec. 1517. **Swimming in daytime—prohibited.**—Any person who shall bathe, wash or swim in the Mississippi river, or in any other water course, pond or pool, in this city, between one hour before sunrise

and one hour after sunset, being naked or insufficiently clothed, thereby causing improper exposure of his person, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than three nor more than one hundred dollars. (M. C., sec. 1439.)

Sec. 1518. Prohibition against bawdy houses, etc.—street walkers—dancing girls—duty of police commissioners.—Clause first: Any person who shall, in this city, keep, maintain, superintend or manage a bawdy house, house of ill fame, house of bad repute, house of prostitution or assignation, or who shall harbor, secrete, or permit any girl, under the age of eighteen years, to remain in, visit or frequent such bawdy house, house of ill fame, house of bad repute, prostitution or assignation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty dollars. Clause second: Any one who shall frequent a house of ill fame, bawdy house, or house of bad repute, prostitution, or of assignation, or shall be found an inmate of such house or houses, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars. Clause third: Any person who shall permit any house, rooms or tenements in his or her possession, or under his or her charge and control, to be used for the purpose of prostitution, or house of bad repute, after ten days' notice from the police commissioners of such use of such house, rooms or tenements, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars. Clause fourth: Any courtesan, prostitute, bawd or lewd woman, or any female inmate of a bawdy house, or house of prostitution, or of assignation, brothel, or house of bad repute, who shall be found wandering about the streets in the night time, or frequenting beer houses and places of public resort, or who shall be found employed singing or dancing in any such house or place, or who shall be found employed as a beer carrier or waiter girl in any such house or place, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars. Clause fifth: Any male person who shall inhabit, eat or sleep in any house of prostitution, bawdy house, house of bad repute, or house of assignation, or who shall be in any way connected with the keeping, management or control of any such house, or of the bawds or prostitutes who live therein, or frequent such houses, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars. Clause sixth: Any prostitute, bawd, courtesan, or lewd woman who shall ply, or seek to ply her vocation by word, sign or action, on the streets, alleys, or in any public place, or at the door or window of any house or rooms, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten nor more than one hundred dollars. Clause seventh: It shall be the duty of the police commissioners whenever they become aware of the use of any house, rooms or tenements, for any of the purposes mentioned in the preceding clauses, to give a written notice of such fact to the owner, or agent of the owner, of such house, rooms, or tenements. (M. C., sec. 1440.)

For ordinance making acts such as designated in clause fourth vagrancy, etc., see R. C., sec. 1632. Chart. Art. III, sec. 26, clause fifth, confers authority on the city to "suppress bawdy and disorderly houses, houses of ill-fame and of assignation." See *infra* on this point.

Unless authorized by law (and then only when conducted therewith in a decent manner), bawdy houses are a common nuisance *per se*: *Givens vs. Van Studdiford*, 86 Mo. 149; *Ashbrook vs. Dale*, 27 Mo. App. 649.

Keeping a brothel is an indictable offense at common law, and under the Charter the City of St. Louis may enact an ordinance providing that the keeping

of a bawdy house shall be a misdemeanor punishable by fine: *St. Louis vs. Melville*, 3 Mo. App. 597 (memorandum opinion).

In *State vs. Dudley*, 56 Mo. App. 450, 1. c. 453, the court says: "Evidence to establish the character of a bawdy house must in most cases be inferential from the nature of the case and hence it must be permitted to take a wide range. In an early case in this state it was held that the refusal of witnesses to testify, on the ground that answers to questions propounded to them would tend to their own degradation might be considered by the jury: *Clementine vs. State*, 14 Mo. 112. In *State vs. Bean*, 21 Mo. 267, an instruction that the jury might consider the character of the inmates and of persons resorting to the same was approved. In *State vs. Barnard*, 64 Mo. 260, the Supreme Court held that the fact that the inmates were prostitutes, strongly conduces to establish the fact that the house was a bawdy house." To same effect *State vs. Horn*, 83 Mo. App. 47, 50.

One may be "found employed" as a beer carrier, etc., though she be proprietor of the place: *State vs. Canton*, 43 Mo. 48.

Under a charter (now not in force) authorizing the city to "regulate" bawdy houses, the control of this matter is referred to the city and operates to make a license for such house valid, although there be a State law making the same a crime, and such license is a defense against prosecution under the statute: *State vs. Clarke*, 54 Mo. 17; *State vs. Vic De Bar*, 58 Mo. 395.

A bawdy house or brothel is a house of ill-fame, kept for the resort and commerce of lewd people of both sexes; and the keeper thereof is a person who acts as master or mistress or has the care, use or management of the house or building in which a bawdy house or brothel is kept and maintained with his knowledge or assistance: *State vs. Horn*, 83 Mo. App. 47.

Sec. 1519. Females—enticement of—penalty.—Clause first: Any person who shall induce, entice or procure any girl under the age of eighteen years, to visit, frequent, or become an inmate, or visitor, or frequenter of any bawdy house, house of ill fame, or house of assignation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than two hundred dollars. Clause second: Any person who shall attempt to induce, entice or procure, or assist in attempting to entice, induce, or procure any girl under the age of eighteen years to visit, frequent, or become an inmate, visitor or frequenter of any bawdy house, house of ill fame, or house of assignation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than two hundred dollars. (M. C., sec. 1441.)

Sec. 1520. Dram shops, employment in of lewd women forbidden.—Any keeper of a dram shop, beer house or other place of public resort, who shall employ a lewd woman, or any woman having the reputation of a prostitute, as a carrier of beer or any other article, either in the day or night time, or to sing or dance in a lewd or indecent manner, or to permit any such lewd woman to act as bartender in any such house or place, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty nor more than one hundred dollars. (M. C., sec. 1442.)

Sec. 1521. Opium dens forbidden.—Any person who shall maintain and keep in the city any place or room where opium, or hasheesh, or any extract of said drugs, or any compound in which said drugs are ingredients, is smoked by himself or others, or who shall attend at any room or place for the purpose of assisting or aiding any person to smoke opium or hasheesh, or any extract of said drugs, or any compound in which said drugs are ingredients, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than three hundred dollars. (M. C., sec. 1443.)

Sec. 1522. **Indecent advertisements of cure of venereal diseases prohibited.**—Any person who shall be guilty of sticking, or putting up in any street, avenue, or alley, on any wall, fence, or other public place in this city, any indecent or gross, printed or written advertisement, bill or notice of his professional skill, or remedies for the curing of venereal, or what are usually called secret diseases, or causing the same to be stuck or put up, or who shall cause any such indecent or gross, printed or written advertisement, either as a bill or circular, whether inclosed in an envelope, or any other form, to be left in any yard or premises attached to any dwelling-house, or to be put under the door, or to be given to any servant or other person in or about such dwelling-house, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty nor more than five hundred dollars. (M. C., sec. 1444.)

Sec. 1523. **Venereal diseases — distribution on streets of books, etc., treating of, prohibited—penalty.**—No person or persons [any person who] shall sell or offer to sell, or give away or offer to give away distribute or have in his or her possession with intent to give away, sell or distribute in or upon any sidewalk, park or public property of the City of St. Louis, any book, pamphlet, circular, handbill, advertisement or notice of any kind purporting to treat or treating of diseases known as “venereal diseases,” describing or explaining or purporting to describe or explain the genital organs, giving or purporting to give the nature and remedies of diseases peculiar to female and uterine diseases, or the nature or causes of nervous debility, impotency, sterility or barrenness, private diseases or the remedies therefor, or the causes or remedies for abortion or miscarriage or articles or means of preventing conception, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than fifty dollars nor more than five hundred dollars for each and every offense and violation of this section. (M. C., sec. 1445.)

Sec. 1524. **Publications as to venereal diseases, abortions, miscarriages, etc., distribution on streets prohibited.**—No [any] person or persons [who] shall sell or offer to sell, give or offer to give away, distribute or have in his or her possession with intent to give away, sell or distribute in or upon any street or sidewalk or park or public property of the City of St. Louis, any book, pamphlet, circular, handbill, advertisement or notice of any kind giving or purporting to give information from whom or where medicine or anything whatever may be obtained for the cure, prevention or treatment of uterine diseases, or diseases peculiar to females, venereal diseases or diseases of the genital organs, or nervous debility, impotency, sterility or barrenness, private diseases, abortion or miscarriage, or articles or means of preventing conception, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than fifty dollars nor more than five hundred dollars for each and every offense and violation of this section. (M. C., sec. 1446.)

Sec. 1525. **Same—newspaper advertisements prohibited.**—Any person who shall in the City of St. Louis, advertise or cause to be advertised in any newspaper printed or circulated in said city, or who shall print or publish any advertisement or notice in any newspaper printed or circulated as aforesaid, purporting to give information as to the treatment of venereal or private or womb diseases, or impotency, self-abuse, sterility or any disease pertaining to the genital organs, or purporting to give information from whom or where medical treatment or medicine may be procured in the above mentioned cases, or any of them, shall be guilty of a

misdeemeanor, and upon conviction, shall be fined not less than fifty nor more than five hundred dollars for each and every offense. (M. C., sec. 1447.)

Sec. 1526. Gambling device—setting up, prohibited.—Every person who shall set up or keep any table or gambling device in the City of St. Louis, commonly called A B C, faro bank, E O, roulette, equality, keno or any kind of gambling table, or gambling device, adapted, devised and designed for the purpose of playing any game of chance, for money or property, and shall induce, entice or permit any person to bet or play at or upon any such gambling table or gambling device, or at or upon any game played only by means of such table or gambling device, or on the side or against the keeper thereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than five hundred dollars for each and every offense. (M. C., sec. 1448.)

A fair and reasonable inference from the evidence that defendant is in charge of and sets up the game, is sufficient, though there be no direct testimony to that effect: *St. Louis vs. Wiley*, 8 Mo. App. 597.

"Crack loo" is a gambling device: *Canton vs. Dawson*, 71 Mo. App. 235, citing *State vs. Flack*, 24 Mo. 378.

Whether under the State statute playing cards are a gambling device, see *State vs. Herryford*, 19 Mo. 377; *State vs. Mohr*, 55 Mo. App. 329; *State vs. Torphy*, 66 Mo. App. 434; *State vs. Purdon*, 3 Mo. 114; *State vs. Gilmore*, 98 Mo. 206.

Lotto: *Lowry vs. State*, 1 Mo. 722.

Horse Race: *State vs. Hayden*, 31 Mo. 35. *State vs. Lemon*, 46 Mo. 375.

Gun and Target: *State vs. Bryant*, 90 Mo. 534.

Crap Table: *State vs. Lockett*, 188 Mo. 415, and cases cited.

Under the State law it was not necessary in order to constitute the offense of **enticing and permitting**, etc., that money be bet, etc.: *State vs. Fulton*, 29 Mo. 680; *State vs. Smith*, *ib.* 683.

The repeal of an ordinance prohibiting the setting up and keeping of gaming tables, except as to offenses committed, is valid: *Kansas City vs. White*, 69 Mo. 26.

Sec. 1527. Gambling device—betting on—forbidden.—Every person who shall in the City of St. Louis, bet any money or property of any nature whatsoever upon any gaming table, bank or device, prohibited by the preceding section, or at or upon any other gambling device, or who shall bet upon any game played at or by means of such gaming table or other gambling device or who shall loan or furnish any money to any other person to bet as aforesaid, and the same shall be so used or who shall in any manner be interested in any such playing or betting at such device, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars nor more than twenty-five dollars for each and every offense. (M. C., sec. 1449.)

See note to preceding section.

A fair inference from the evidence that defendant was playing keno for money is sufficient though there be no direct testimony: *St. Louis vs. Sullivan*, 8 Mo. App. 455.

Sec. 1528. Gambling device—penalty for permitting premises to be used for.—Every person who in the City of St. Louis, shall knowingly permit any gambling table, bank or device to be set up or used for the purpose of gaming in any house, building, shed, booth, shelter, lot or other premises to him belonging or by him occupied, or of which he has at the time the possession or control, shall be guilty of a misdemeanor, and

upon conviction thereof, shall be fined not less than ten nor more than four hundred dollars for each and every such offense. (M. C., sec. 1450.)

Sec. 1529. **Common gaming-house—prohibited.**—Every person who shall in the City of St. Louis, set up and keep a common gaming-house, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than five hundred dollars for each offense. (M. C., sec. 1451.)

Occasional games of poker privately played with acquaintances for money in his room does not make one the keeper of a common gaming house: *State vs. Mosby*, 53 Mo. App. 571, (holding also that evidence of general reputation of defendant and those who frequented the house was admissible, and also that a common gaming house may consist of a single room rented in a house of many rooms and not open to the whole public, nor exclusively used for gaming). A gaming house may consist of a boat: *State vs. Metcalf*, 65 Mo. App. 681.

In upholding an Ohio statute the U. S. Supreme Court recently said in *Marvin vs. Trout*, 199 U. S. 212: "For a great many years past gambling has been very generally in this country regarded as a vice to be prevented and suppressed in the interest of the public morals and the public welfare. The power of the state to enact laws to suppress gambling cannot be doubted, and, as a means to that end, we have no doubt of its power to provide that the owner of the building in which gambling is conducted, who knowingly looks on and permits such gambling, can be made liable, in his property which is thus used, to pay a judgment against those who won the money, as is provided in the statute in question."

Sec. 1530. **Gambling device—letting of premises for prohibited.**—Every person who shall in the City of St. Louis, lease or let to another any house or other building, or any rooms therein, for the purpose of setting up or keeping therein, any of the gaming tables, banks or devices prohibited by the preceding provisions, or for the purpose of being used and kept as a gaming-house, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than five hundred dollars for each and every offense. (M. C., sec. 1452.)

Sec. 1531. **Gambling device—keeper of, defined.**—Every person in the City of St. Louis, appearing or acting as master or mistress, or having in care, use or management for the time, of any prohibited gaming table, bank or device, shall be deemed a keeper thereof, and every person in the City of St. Louis, who shall appear or act as master or mistress, or having the care, use or management of any house or building, or room or rooms therein, in which any gaming table, bank or device is set up or kept, or of any gaming-house, shall be deemed to be the keeper thereof. (M. C., sec. 1453.)

See notes to preceding sections; see also *State vs. Ebert*, 40 Mo. 186; *State vs. Gilmore*, 98 Mo. 206.

Sec. 1532. **Gaming, prohibited.**—If any person in the City of St. Louis, shall play at any game whatsoever for money, property of any nature whatsoever, or gain, with cards, dice or any other device which may be adapted to, or used in playing any game of chance, or in which chance is a material element, or shall bet or wager on the hands or cards, or sides of such as to play as aforesaid, [he] shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five nor more than twenty-five dollars for each offense. (M. C., sec. 1454.)

Every betting is a separate offense: See *Toney vs. State*, 13 Mo. 455.

Sec. 1533. **Lotteries—prohibited.**—If any person shall make or establish or aid or assist in making or establishing any lottery, gift or en-

terprise, or scheme of drawing in the nature of a lottery, for any purpose in the City of St. Louis, or shall advertise or make public, or cause to be advertised, or made public, by means of any newspaper, pamphlet, circular, or other written or printed notice thereof, printed or circulated in the City of St. Louis, whether the same is being or is to be conducted, held or drawn within or without the City of St. Louis, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than five hundred dollars for each offense. (M. C., sec. 1455.)

As to violation of State statute see *State vs. Kaub*, 15 Mo. App. 433; *ib.* 90 Mo. 196; *State vs. Mumford*, 73 Mo. 647; *State vs. Russell*, 17 Mo. App. 16; *State vs. Bruner*, 17 Mo. App. 274; *State vs. Harmon*, 60 Mo. App. 48; *State vs. Pomeroy*, 130 Mo. 489; *State vs. Wilkerson*, 170 Mo. 184.

A city ordinance is valid notwithstanding a State statute on the same subject; and the ordinance is enforceable by fine and in default of payment by imprisonment in the workhouse: *Ex parte Kiburg*, 10 Mo. App. 442; and the ordinance is valid though it provides a more definite fine and penalty than the statute; this does not create any repugnancy between them: *Kansas City vs. Hallett*, 59 Mo. App. 160; see also *Kansas City vs. Zahn*, 73 Mo. App. 396. As to when distribution of prizes to subscribers of a newspaper by the proprietors, in pursuance of a pre-arranged advertised scheme, though no tickets be sold, operates as a lottery, see *State vs. Mumford*, 73 Mo. 647.

One having a license for a show or exhibition, prohibited from running a lottery by R. C. 1595.

Sec. 1534. Lottery tickets—sale of, prohibited.—Any person who shall in the City of St. Louis, sell or expose to sale, or cause to be sold or exposed to sale, or shall keep on hand for the purpose of sale, or shall advertise or cause to be advertised for sale, or who shall print or publish such advertisement, or shall aid or assist, or be in anywise concerned in the sale or exposure to sale of any lottery ticket or tickets, or any share or part of any lottery ticket in any lottery or device in the nature of a lottery, within the City of St. Louis, or elsewhere, and any person who shall in the City of St. Louis advertise or cause to be advertised, the drawing of any scheme in any lottery, or shall print or publish such advertisement, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than five hundred dollars for each offense. (M. C., sec. 1456.)

See note to preceding section.

Sec. 1535. Lottery, etc., letting of premises for prohibited.—Every person who in the City of St. Louis, shall knowingly permit to be used, any house, building, shed, booth, shelter, lot or other premises to him belonging, or by him occupied, or of which he has at the time possession or control, for the sale or exposure to sale of any lottery ticket or tickets, or any share or part of any lottery ticket in any lottery, or device in the nature of a lottery, or for the purpose of conducting any gift enterprise, or scheme of drawing in the nature of a lottery, within the City of St. Louis, or elsewhere, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than four hundred dollars for each and every offense. (M. C., sec. 1457.)

ARTICLE II.

OF OFFENSES AFFECTING THE PUBLIC ORDER AND PEACE.

Sec. 1536. Riotous assemblies forbidden.—Any two persons who shall, in this city, assemble together, or, being assembled, shall act in con-

cert to do any unlawful act with force or violence, against the property of this city, or the person or property of another, or against the peace or to the terror of others, and shall make any movement or preparation therefor, and every person present at such meeting or assembly, who shall not endeavor to prevent the commission or perpetration of such unlawful act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten nor more than fifty dollars. (M. C., sec. 1458.)

Charter provisions as to riots, see Art. III, sec. 26, clause 9; Mayor's powers in case of riots, R. C., sec. 1604.

Sec. 1537. Disturbances of the peace—assault, etc.—penalty—Any person who, in this city, shall disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct or carriage, or by loud and unusual noises, or by unseemly, profane, obscene or offensive language, calculated to provoke a breach of the peace, or by assaulting, striking or fighting another; or any person who, in this city, shall permit any such conduct in or upon any house or premises owned or possessed by them, [him], or under [his] their management or control, so that others in the vicinity are disturbed thereby, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than five hundred dollars. (M. C., sec. 1459.)

A municipality may pass an ordinance against disturbance of the peace, though there is a State statute, (not inconsistent with it) on the same subject: *Glasgow vs. Bazan*, 96 Mo. App. 412. An ordinance providing that "every person who shall willfully disturb the peace by loud or unusual noise, by blowing horns, trumpets, or other instruments, or by any other device or means whatsoever, shall be deemed guilty of a misdemeanor," is not violated by parties engaged in a "charivari" unless the effect is to disturb the peace and quiet of the citizens or some of them. *St. Charles vs. Meyer*, 58 Mo. 86. A peace officer's personality is merged in his official position and his peace cannot be disturbed by the offensive language of one of a crowd which he is trying to disperse: *Salem vs. Coffey*, 113 Mo. App. 675.

[Sec. 1537a. **Throwing confetti, flour, etc.***]

Sec. 1538. Sunday or other day—disturbance of peace on—swearing, canning beer, loafing, etc.—penalty.—Any person who shall, on Sunday or any other day of the week, disturb the peace by any noisy, riotous or disorderly conduct, in any park, street, alley, highway,

*Ordinance 22564, approved Oct. 2, 1906, after submission of the Revised Code to the assembly and before its passage, so that it could not be included therein is as follows:

(22564.)

An ordinance to amend Chapter Eighteen of the Municipal Code by adding a new section, to be known as Section Number Fourteen Hundred and Fifty-nine A.

Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section One, Chapter Eighteen of the Municipal Code is hereby amended by adding a new section, to be known as Section Fourteen Hundred and Fifty-nine A, as follows:

Section Fourteen Hundred and Fifty-nine A. Any person who, in this city, shall on the public streets or highways or in the public parks, or other places where the public congregate, toss at or throw upon any one any quantities of flour or confetti, or any other substance, shall be deemed guilty of a misdemeanor, and on conviction thereof, before either of the police justices of this city, shall be fined not less than five dollars nor more than twenty-five dollars for each offense.

thoroughfare, or other public place or public resort for pleasure or amusement or other purposes, or any person or persons who shall lounge, stand or loaf around or about, or at street corners, or other public places in the day or night time, or who shall use indecent, lewd or profane language on the public street or other public places, or who shall purchase or otherwise obtain any beer, wine or spirituous or malt liquors by the measure or in quantities greater than one-half pint and drink the same upon or on the public streets, alleys, parks, or other public thoroughfares or places in the city, shall be deemed guilty of a misdemeanor, and upon conviction thereof before either of the police justices, shall be fined in a sum of not less than five nor more than fifty dollars. The above provisions not to apply to workingmen drinking beer at lunch or dinner at their places of work. (M. C., sec. 1460.)

Sec. 1539. Dram shops, permitting disturbances in, forbidden—selling liquor to intoxicated person.—Any keeper of a dram shop, beer house, or other place of public resort, who shall permit any breach of the peace or disturbance of public order or decorum, by noisy, riotous and disorderly conduct on his premises, when it was in his power to prevent it, or who shall sell any intoxicating drink to any person already intoxicated, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than twenty-five nor more than two hundred and fifty dollars. (M. C., sec. 1461.)

Sec. 1540. Band music in streets, when prohibited—permit.—It shall not be lawful for any military company, or any procession, or any body of persons, accompanied with martial music, to march or pass through, or for any person to play on any musical instrument in, any of the streets of the city, within one block of any house of worship, on Sunday during the hours of worship. Nor shall it be lawful for any band of music to play in the streets for any procession with advertising devices, or to move on said streets without a permit from the mayor; provided, that nothing herein contained shall prevent any military company, organized under the laws of the state, from parading with a band of music on any day except Sunday. Any person who shall violate this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not less than ten dollars nor more than fifty dollars for each and every offense. (M. C., sec. 1462.)

Charter provision requiring regulations of public processions in the streets:
See Charter Art. XVI, sec. 10.

Sec. 1541. Disturbing religious worship—penalty.—Any person who shall, in this city, disquiet or disturb any congregation or assembly met for religious worship, by making a noise, or by rude or indecent behavior, or profane discourses within their place of worship, or so near the same as to disturb the order or solemnity of the meeting, shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than ten nor more than fifty dollars. (M. C., sec. 1463.)

Sec. 1542. Disturbing lawful assembly—penalty.—Any person who shall, in this city, disturb any lawful assemblage of people by rude and indecent behavior, or shall be found loitering at the corners of streets, or in the vicinity of any place of amusement, or hotel, or thoroughfare, and refuse to disperse or vacate such place when requested to do so by any police officer, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than twenty-five dollars. (M. C., sec. 1464.)

Sec. 1543. **Whistles, what not to be blown.**—Hereafter, it shall not be lawful for the owner or owners, agents, lessees, supervisors, superintendents, workmen or employes, in any capacity, of any sawmill or factory of any kind, or of any machine shop or foundry, or mill of any kind, to blow, or sound, or cause or permit to be blown or sounded, for any purpose whatever, any steam whistle within the city, about or connected in any manner with any sawmill, factory of any kind, machine shop, foundry or mill of any kind, of which he or they are the owners, agents, supervisors, superintendents, workmen or employes. (M. C., sec. 1465.)

Sec 1544. **Penalty.**—Any person offending against the next foregoing section shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than five nor more than one hundred dollars, but this article shall not be so construed as to prevent the use of steam whistles on steamboats or locomotives within the city. (M. C., sec. 1466.)

Sec. 1545. **False alarm of fire—penalty.**—Any person who shall intentionally in this city give or make a false alarm of fire, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty nor more than two hundred dollars. (M. C., sec. 1467.)

Sec. 1546. **Ringling bells for auction—penalty.**—Any person who shall, in this city, employ any bell man, or use, or cause to be used, any bell or other sounding instrument as means of attracting people to an auction or other place, or shall permit any such to be used, for or on his account, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than fifty dollars. (M. C., sec. 1468.)

Sec. 1547. **Hand organs or other musical instrument—prohibited—except in parades.**—No license shall be granted to any person who shall carry about the streets any hand organ or other musical instrument for the purpose of playing music thereon, either on any street, alley or public highway, or in any house, for gain; and whoever shall carry such organ or instrument for such purpose, shall be deemed guilty of a misdemeanor; provided, that this section shall not be construed to refer to music required for a military parade, burial or other procession, or serenading party. (M. C., sec. 1469.)

Sec. 1548. **Carrying slung shots, brass knuckles, etc.—penalty.**—Whenever there shall be found upon the person of any one who has been found guilty of a breach of the peace, or of conduct calculated to provoke a breach of the peace, any slung shot, colt, or knuckles of lead, brass or other metal; or when upon trial, evidence shall be adduced proving that such weapons were in the possession or on the person of any one while in the act of commission of the acts aforesaid, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars. (M. C., sec. 1470.)

Sec. 1549. **Same—concealed weapons—carrying of, prohibited.**—Hereafter it shall not be lawful for any person to wear under his clothes, or concealed about his person, any pistol or revolver, colt, billy, slung shot, cross knuckles, or knuckles of lead, brass or other metal, bowie

knife, razor, dirk knife, dirk, dagger, or any knife resembling a bowie knife or any other dangerous or deadly weapon, within the City of St. Louis, without written permission from the mayor; and any person who shall violate this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten nor more than five hundred dollars for each and every offense. (M. C., sec. 1471.)

Sufficiency of information for carrying concealed weapons: *Columbia vs. Johnson*, 72 Mo. App. 232. This section was sustained as being within the power of the city to enact; the court says: "Under its general grant of powers the city might well adopt and enforce, in manner as provided, such an ordinance as appellant is found to have violated. It is a wholesome provision for the preservation of peace and order in the city": *St. Louis vs. Vert*, 84 Mo. 204. See also *Jorrick vs. Akers*, 109 Mo. App. 662. The city may pass such an ordinance though there be also a State statute thereon, if it be not inconsistent therewith: *Linneus vs. Dusky*, 19 Mo. App. 20; and it is not void if the penalty provided by ordinance is less than that fixed by statute: *Ex parte Caldwell*, 138 Mo. 233.

Sec. 1550. Weapons may be worn by officers.—Nothing in the next preceding section shall be so construed as to prevent any United States, state, county or city officer, or any member of the city government, from carrying or wearing such weapons as may be necessary in the proper discharge of his duties. (M. C., sec. 1472.)

ARTICLE III.

OF OFFENSES AFFECTING THE PUBLIC SAFETY.*

Sec. 1551. Automobiles, horseless vehicles—speed limit.—No automobile, locomobile or horseless vehicle propelled by the use of electricity, gasoline or steam, by whatever name such vehicle may be known, whether used for purposes of pleasure or business, shall be moved or propelled along, over or upon any public street, avenue, boulevard, or other public place, at a rate of speed exceeding eight miles per hour, and no such vehicle shall be moved or propelled in any public park of the city at a rate of speed to exceed six miles per hour. (Ord. 20536, sec. 1.)

The State law of 1903 limiting the speed to nine miles an hour (*Session Laws 1903*, p. 162-163, sec. 2) was held constitutional: *State vs. Swagerty*, 102 So. W. 483 (Sup. Ct., May 14, 1907.). This act was in many respects repealed by the act of 1907 (*Laws 1907*, pp. 73-79.) By the latter the speed was limited in any event to 15 miles per hour, and six miles on intersecting streets, and to 8 miles in the business limits of a city, and 10 miles in other portions of the city, etc. The State law in many respects supplants the ordinances as to automobiles, etc.

Sec. 1552. Same—penalty.—Any person violating any of the provisions of above section shall, on conviction, be subject to a fine of not less than five nor more than five hundred dollars. (*Ib.*, sec. 2.)

Sec. 1553. Automobiles to have identification numbers—requisites thereof.—That hereafter all automobiles operated in the City of St. Louis shall display identification numbers as herein provided. Such numbers shall be not less than five inches high and the line marking the numbers shall be white and be five-eighths of an inch wide at every point and such numbers shall be placed at least three-fourths of an inch apart. (Ord. 21363, sec. 1.)

State law, see acts 1907, pp. 73-79, providing for numbering, licensing, giving right of way to other vehicles, lights at night, penalty, etc. And see *State vs. Cobb*, 113 Mo. App. 156, as to former act of 1903.

As to ordinance requiring automobile licenses see R. C., 1811.

*For offenses connected with use of streets and highways see R. C., Chap. IX, Art. XI, secs. 1208 *et seq.*

Sec. 1554. Same—signs—numbers—plate—conditions.—All such numbers shall be painted on black or blue signs or plaques of wood, metal or leather, or directly on the machine itself, provided the machine be painted black at this particular place; and such signs or plaques shall be so attached to the machine that they will not sway in any direction independently of the motion of such machine. The numbers shall be of Arabic numerals. The numbers to be displayed on said automobiles as herein provided shall correspond with the number of the operating license-tag or plate issued to the owner of said automobile, providing further that a license-tag or plate bearing numbers and attached to the machine and lighted at night as herein provided may be used as a full compliance with the provisions of this ordinance. (*Ib.*, sec. 2.)

Sec. 1555. Same—where placed.—Such numbers shall be displayed on the rear of the machine in plain sight as nearly as possible in the middle of the machine, and shall be low enough so as not to be hidden by the hood or any other obstruction on the machine. (*Ib.*, sec. 3.)

Sec. 1556. Same—lights to be carried.—All automobiles when in use on the streets shall have and keep a lighted lamp or lantern from sunset to day break which shall throw a red light directly to the rear of the machine and a white light on the numbers in such manner as to make such numbers plainly visible and legible. (*Ib.*, sec. 4.)

Sec. 1557. Misdemeanor—penalty—forfeiture of license.—Any person, firm or corporation violating, disobeying, neglecting or refusing to comply with any of the provisions of the preceding four sections shall be subject, on conviction, to a penalty of not less than five nor more than twenty-five dollars for each offense and in the discretion of the mayor to a revocation of the automobile license of the person operating any automobile at the time of any violation of said sections. (*Ib.*, sec. 5.)

See note to sec. 1553 supra.

Sec. 1558. Fast driving—loose or unguarded animals—cruelty to animals—misdemeanor, etc.—Any person who shall, in this city, ride or drive any animals in any highway, thoroughfare or public place, quicker than or beyond a moderate gait, or shall not slacken the pace of such animal or animals in approaching any crosswalk upon which any person may be in the act of crossing, or in the act of approaching or leaving a street car; or shall ride or drive any such animal so as to cause such animal or any vehicle thereto attached, to come in collision with or strike any other object or other person, or shall leave any such animal standing in any public place without being fastened or so guarded as to prevent its running away, or shall turn any such animal loose in any thoroughfare, or shall inhumanely, unnecessarily or cruelly beat, injure or otherwise abuse any dumb animal, shall be deemed guilty of a misdemeanor. (M. C., sec. 1473.)

At common law one who leaves a horse loose and unattended in a street is responsible for injuries done by its running away: *Becker vs. Schutte*, 85 Mo. App. 57, 63.

As to cruelty to animals, see the more comprehensive provisions of R. C. sec. 1607, *et seq.*

Sec. 1559. Bells on animals prohibited—exceptions.—Any person who shall, in this city, ride or drive any animal with a bell or bells of any description attached thereto, shall be deemed guilty of a misdemeanor. This section shall not extend to strangers passing through the city, nor to the use of bells upon horses driven to sleighs or sleds, when there is snow upon the ground. (M. C., sec. 1474.)

Sec. 1560. Sleighs without bells—prohibited.—Any person who shall, in this city, drive any animal harnessed to a sleigh or sled, without a bell or bells attached to said animal, shall be deemed guilty of a misdemeanor. (M. C., sec. 1475.)

Sec. 1561. Rules of the road on highways.—In all cases of persons meeting each other in vehicles in any highway or thoroughfare in this city, each person so meeting, shall turn off and go to the right side of the highway or thoroughfare, so as to enable such vehicles to pass each other without accidents; provided, however, that any person driving on any street or railroad track in the direction that the rail cars are running, shall be entitled to the right-of-way, on condition that he shall not impede the progress of any rail car running on said track. Any person who shall violate this section shall be deemed guilty of a misdemeanor. (M. C., sec. 1476.)

Ord. 23068 (passed after the Rev. Code) provides for the paramount right of way of the ambulances of the Board of Health.

Sec. 1562. Kite-flying—when prohibited.—Any person who shall, in any highway or thoroughfare of this city, fly a kite, or use any sport or exercise likely to scare horses, injure passengers, or embarrass the passage of vehicles, shall be deemed guilty of a misdemeanor. (M. C., sec. 1477.)

Sec. 1563. Blasting—precautions required—Quarry excavations to be guarded.—Any person who shall, in this city, near any street, alley, lane or other public thoroughfare, or near any public or private place, where people frequently pass and would be likely to be injured by such blasting, blast or cause to be blasted any rock without having the orifice in said rock, at the time of setting off the blast, properly covered with good sound plank or timber, or some other material of sufficient size and weight and so placed as to effectually prevent fragments of rock from ascending into the air, shall be deemed guilty of a misdemeanor. Whenever the excavation for any quarry shall approach the line of a street or alley, the person owning or operating said quarry shall build a retaining wall to support the surface of said street or alley, and if he fail to do so after ten days' notice in writing by the street commissioner, he shall be deemed guilty of a misdemeanor. (M. C., sec. 1478.)

See as to quarries requiring ordinance before being opened, R. C., secs. 625 and 626.

Sec. 1564. Ball-playing on highway prohibited.—Any person who shall, in this city, play at a game of ball upon any public highway, street or alley, shall be deemed guilty of a misdemeanor. (M. C., sec. 1479.)

Sec. 1565. Purloining horse, etc., penalty.—Any person who shall, in this city, unhitch any animal or drive or ride off with any horse, horses or other animals, without the consent of the owner thereof, shall be deemed guilty of a misdemeanor. (M. C., sec. 1480.)

Sec. 1566. Firearms loaded with powder and ball, forbidden in theaters.—It shall be unlawful to discharge, use or employ any firearms loaded with powder and ball in any exhibition, theater or place of amusement in the City of St. Louis. The violation of this section shall constitute a misdemeanor, and the offender on conviction shall be fined not less than twenty-five dollars nor more than three hundred dollars for each offense. (M. C., sec. 1481.)

Sec. 1567. Proprietor responsible.—The proprietor, conductor, manager, agent, or any other person having charge or direction of such ex-

hibition, theater, or place of amusement in the City of St. Louis, shall be held responsible and liable for any and all violations of the next preceding section happening at the places so under his charge to the same extent and effect as if he had personally done the things herein prohibited. (M. C., sec. 1482.)

Sec. 1568. Minors—conditions of sale to, of ammunition.—No person shall sell to any child under the age of sixteen years, without the written consent of the parents or guardian of such child, any cartridge of fixed ammunition of which any fulminate is a component part, or any gun, pistol or other mechanical contrivance arranged for the explosion of such cartridge, or of any fulminate. (M. C., sec. 1483.)

Sec. 1569. Penalty.—Any person or persons violating any of the provisions of the next preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than fifty dollars nor more than two hundred dollars. (M. C., sec. 1484.)

Sec. 1570. Bridges—rate of speed, in driving over.—It shall be unlawful for any person to drive any wagon, omnibus, carriage, buggy or vehicle of any kind, or any cattle or horses, or to ride on horseback, at a faster rate of speed than that of a walk, over the Illinois and St. Louis bridge or any other bridge and their approaches within the corporate limits of the City of St. Louis; and any person who shall violate this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined five dollars for each and every offense. (M. C., sec. 1485.)

Sec. 1571. Bridges—notice to be posted.—Said bridge company or its owners or managers shall cause to be posted in one or more conspicuous places on said bridge or its approaches in the City of St. Louis, a sign or signs, containing and setting forth in an abbreviated form the provisions of sections 1570, 1571 and 1572, and warning all persons to observe the same. (M. C., sec. 1486.)

Sec. 1572. Bridges—to what ordinance applies.—The provisions of this chapter and all ordinances relating to misdemeanors shall extend to any bridges and their approaches within the city limits, and the police officers of this city, as well as any special officers of the bridges, shall have power to make arrests on said bridge within the city limits for all violations thereof; provided, that the City of St. Louis shall not incur any expense whatever attending the making of arrests under the provisions of sections 1570 and 1572. (M. C., sec. 1487.)

Sec. 1573. Penalty.—Any person who shall violate or fail to comply with any of the provisions of this article, except as hereinbefore provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five nor more than two hundred dollars. (M. C., sec. 1488.)

Sec. 1574. Cattle—hours for driving in streets.—Whoever shall, in this city, between the hours of eight o'clock a. m. and nine o'clock p. m., during the months of November, December, January and February, and the hours of seven o'clock a. m. and ten o'clock p. m., during the months of March, April, May, June, July, August, September and October, drive or assist in driving, any horned cattle, along, through, across or upon any

street, alley, lane, levee or other highway within the limits of the city, excepting the public wharf north of North Market street and south of Barton street, and whoever, being the owner, driver, or other person having charge of cattle, who shall, between the hours aforesaid, through negligence or other cause, permit any steer, cow or bull to escape, go or be upon any street, lane, alley or other highway within said city, except that part of the public wharf above mentioned, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five nor more than fifty dollars; but nothing in this section shall be so construed as to prevent farmers or others transferring during day-time, through any and all parts of the city, any milch cows accompanied by their calves, or prevent butchers or others from transferring cattle in droves of not over twenty-five in number from the stock yards, between the hours of half-past nine and half past eleven o'clock in the forenoon, and between the hours of one and four o'clock in the afternoon. (M. C., sec. 1489.)

It is competent for a city having a charter authority to provide for the safety of the lives and property of the inhabitants, to regulate, by ordinance, the driving of horned cattle through the streets: St. Louis vs. Rothschild, 3 Mo. App. 563.

Sec. 1575. Cattle—regulations for driving.—Any person being in charge of, or exercising control over the cattle herein mentioned, who shall drive or permit to be driven along, through, across or upon any street, alley, lane, levee or other highway within the limits of the City of St. Louis, any drove of cattle more than fifty in number, or who shall permit the cattle in his charge or under his control to be driven within said city, at a rate of speed exceeding three miles per hour, or who shall drive or permit to be driven a drove of cattle nearer to any other drove than one ordinary city block, or who shall drive any horned cattle without having drivers or attendants therefor, as follows, viz.: One driver for ten head of cattle or less; two drivers for twenty-five head or more than ten; three drivers for any number over twenty-five and not to exceed fifty, or who shall drive or permit any hogs, sheep or other animals to go upon or across any sidewalk or grass plat adjacent to a sidewalk, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five nor more than fifty dollars. (M. C., sec. 1490.)

Sec. 1576. Police—duty of.—It shall be the duty of the police to aid and assist the city marshal in taking up and impounding any cattle driven through, across or upon the streets, alleys, levees or other highways within the city limits, contrary to the provisions of this article, which cattle shall be disposed of in accordance with the provisions of section 1578. (M. C., sec. 1491.)

Sec. 1577. Preceding sections construed.—Nothing in the next preceding sections shall be so construed as to prevent the St. Louis, Iron Mountain and Southern Railway Company and river steamers, transferring during the day time, stock from their yards and boats, between Miller street and Park avenue, across the levee to the transfer boats; provided, also, that all yards located within three city blocks of the levee, shall have the right to have cattle driven or led from said yards to the levee, and along the levee to the point of destination, on the following described streets and none other: From Second street between Chouteau avenue and Sycamore street to Sycamore street, along Sycamore street to Main street, along Main street to Chouteau avenue, along Chouteau avenue from Main street to the levee; also from Broadway between Warren and Montgomery streets, along Broadway to North Market street, east on North Market street to Main

street, south on Main street to Biddle, east on Biddle to the levee, and along the levee; from levee to Cass avenue, along Cass avenue to Second street, along Second street to North Market street, along North Market street to Hall street, thence north on Hall street. (M. C., sec. 1492.)

Sec. 1578. Cattle, hogs, etc., estray—disposition of.—No goat or goats, or hogs of any description shall be permitted to run at large within the old limits of the city; and no cattle shall be allowed to run at large within the said old limits of the city. All cattle, goats, hogs or pigs found running within the limits from which they are hereby excluded shall be taken up by the city marshal and placed in some secure pen or pound, to be by him provided for that purpose. (M. C., sec. 1493.)

Authority to restrain animals running at large and for persons to take up same and claim compensation, etc.: Laws Mo. 1877, p. 194, set forth Laws Applicable to St. Louis, Chap. 2, sec. 4-11; also Scheme, sec. 35; authority for city to regulate and prohibit running at large of animals: Charter, Art. III, sec. 26, clause 9. Such ordinances bind non-residents while within city limits, but are not intended to punish persons for an unavoidable escape where the owner uses due diligence: *Spitler vs. Young*, 63 Mo. 42, 45. See also *Sherrell vs. Murray*, 49 Mo. App. 233; 2 R. S. 1899, secs. 4777-4793; held valid in *State vs. Aubuchon*, 8 Mo. App. 325; see also *Schwarz vs. R. R.*, 58 Mo. 202, 209; *Owens vs. R. R.*, 58 Mo. 386. Validity of similar ordinances, irrespective of fault of owner of animals, see *Jeans vs. Morrison*, 99 Mo. App. 208 and cases there cited; *McVey vs. Barker*, 92 Mo. App. 498, 507 (distinguishing *Spitler vs. Young*, *supra*.) Power to prohibit horned cattle in streets: *St. Louis vs. Rothschild*, 3 Mo. App. 563.

Sec. 1579. Impounded cattle, etc., to be sold.—Whenever any cattle, goats, hogs or pigs are thus taken up, it shall be lawful for the city marshal, and it is hereby made his duty, to sell the same at auction, to the highest bidder, for cash, after having given five days' notice, by advertising in the newspapers doing the city printing, of the time and place of such sale; and the place of such sale shall be the city dog pound, and mode of such sale, by selling each animal separately; and the moneys arising therefrom shall, after the expense of taking up and selling the same are deducted, be paid over to the owner or owners, on their proving to the city marshal that such cattle, goats, hogs and pigs belonged to them; but if no owner appear within thirty days after such sale, the said money, after deducting the costs aforesaid, shall be paid into the city treasury. (M. C., sec. 1494.)

Sec. 1580. Duty of marshal as to estrays.—It shall be the duty of the city marshal at all times to take up any and all cattle, goats, hogs or pigs running at large within the above described limits, and employ two or more persons to aid him in carrying into effect the provisions of this article, whose compensation for taking up said animals shall not exceed fifty cents per head. (M. C., sec. 1495.)

Sec. 1581. Expenses—limitation of.—All expenses for taking up and selling cattle, goats, hogs or pigs shall not exceed two dollars per head. (M. C., sec. 1496.)

ARTICLE IV.

OF MISCELLANEOUS OFFENSES.

Sec. 1582. Taking books, etc., from public library.—Every person who shall take from the public (free) library any book, pamphlet, periodical, paper or other property, except in accordance with the rules of

such library, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine in the sum of not less than five dollars nor more than twenty-five dollars for each offense. (M. C., sec. 1497.)

Sec. 1583. Failure to return books, etc., to library.—Every person who shall take or borrow from the public (free) library any book, pamphlet, periodical, paper or other property, and neglect to return the same within two weeks from the date of mailing a notice to his address, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine in the sum of not less than one dollar nor more than ten dollars for each offense. (M. C., sec. 1498.)

Sec. 1584. Mutilating and marking books, etc., of library.—Every person who shall willfully and wantonly cut, mutilate, mark, tear, write upon, deface or otherwise destroy or injure in whole or in part, any book, pamphlet, periodical, map, document, picture, or written or engraved or printed paper, belonging to the public (free) library, or shall suffer any such injury to be inflicted while such property is in his custody, or shall willfully or wantonly injure any of the furniture or property in the building of the library, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in the sum of not less than five dollars nor more than one hundred dollars. (M. C., sec. 1499.)

Sec. 1585. Fines to be paid to free library fund.—All fines collected under the three preceding sections of this article shall be paid over to the free library fund for the use of the library, and it shall be the duty of city attorneys promptly to prosecute all violations of said sections. (M. C., sec. 1500.)

Sec. 1586. Spitting in public vehicle or public place prohibited.—Spitting upon the floor, platform, sides or steps of any railroad or railway station, or railroad car, or street car, or upon the floor, platform, steps or walls of any public building, hall, church, theater, market, elevator in public or private building, or upon any sidewalk, or upon any walk in any park or public place, is hereby declared a misdemeanor. (Ord. 20990, sec. 1.)

Sec. 1587. Same—penalty.—Any person violating the provisions of above section, upon conviction shall be deemed guilty of a misdemeanor and punished by a fine of not less than one dollar nor more than five dollars. (*Ib.*, sec. 2.)

Sec. 1588. Same—whose duty to enforce.—It shall be the duty of the police officers of the city to arrest any person found violating any of the provisions of section 1586; it shall be the duty of every street car conductor, janitor of a building, or any person in charge of any car, public building or public place, or park, to watch for and cause the arrest of any person violating any of the provisions of said section. (*Ib.*, sec. 3.)

Sec. 1589. Same—who to post copies of ordinance.—It shall be the duty of all persons having charge of railway or railroad stations, street cars, public platforms, halls, churches or theaters, to have a copy of sections 1586 to 1589 inclusive framed and posted in conspicuous places. (*Ib.*, sec. 4.)

Sec. 1590. Advertising matter, etc., not to be put on poles, etc., sidewalks, etc.—Any person or officer, agent or employe of any cor-

poration or association, who shall stick, paint, brand, stamp, attach, hang or suspend, upon any house, fence or wall, without the consent of the owner, agent, or tenant thereof, or upon any pole used for the purpose of carrying electrical conductors, or upon any street or sidewalk pavement, or other public place, any printed, written, painted or other advertisement, bill, notice, sign or poster, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars for each and every offense, and any person or officer, agent or employe of any corporation or association, who shall aid, abet, advise or assist any other person in committing the offenses specified in this section, either before or after the fact shall be deemed an accessory thereto, and shall be punished as if he was the principal in such offense, whether the principal has been proceeded against or convicted or not, and in every such case shall be deemed guilty thereof, and upon conviction shall be fined not less than twenty-five dollars nor more than five hundred dollars for each and every offense. (M. C., sec. 1505.)

Sec. 1591. **Billboards—who may erect.**—Any manager or proprietor of a permanent theater or any licensed bill poster in the City of St. Louis shall have authority to erect on any private property, where he can obtain permission from the owner or owners thereof, or any city property, provided the consent of the comptroller, approved by the mayor, has been first obtained, a billboard for advertising purposes. (M. C., sec. 1506.)

Sec. 1592. **License—to be obtained.**—Said theatre manager or proprietor, or billposter, shall take out the usual license for billposting, and any person defacing, covering, or in any way mutilating the playbills or other advertisements displayed upon said boards, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before the police justice, be fined not less than ten nor more than fifty dollars for each offense. (M. C., sec. 1507.)

Sec. 1593. **Shows—licenses, when granted.**—Hereafter, before any license for any show or other exhibition whatever, or for the amusement known as roundabout or flying horses, shall be granted to any person by the license collector, the person or persons applying therefor shall obtain a written permit from the mayor and present the same to the license collector. (M. C., sec. 1508.)

This section is duplicated by sec. 1606.

Sec. 1594. **Shows—evidence of moral character of required.**—No such permit shall be granted by the mayor to any person or persons whatsoever unless such person shall satisfy the mayor that no immoral, unlawful or improper business is intended to be carried on at such show or exhibition; and such permit, and also the license granted thereon, shall distinctly describe and specify the character and nature of the show or exhibition for which such permit and license is granted, and may designate the place at which such show or exhibition shall be carried on. (M. C., sec. 1509.)

Sec. 1595. **Shows—what business in connection with prohibited.**—Any person or persons having obtained such permit or license, who shall carry on or transact or permit to be carried on or transacted, in their establishment, any other business, or at any other place than that specified in such permit or license, or shall keep or carry on, or permit to

be kept or carried on, upon their premises, any lottery, gift enterprise, game of chance or any unlawful business or proceeding whatever, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than one hundred dollars, and shall furthermore forfeit their license. (M. C., sec. 1510.)

Lotteries prohibited by R. C., secs. 1533-1535.

Sec. 1596. Licenses—when may be revoked.—All licenses granted under this article may be revoked by the mayor by his giving three days' notice thereof to the party licensed, and said party shall thereupon be entitled to have an amount of money proportionate to the unexpired time of his license refunded to him, and the auditor is hereby authorized to draw his warrant upon the treasurer for the amount so due, payable out of the contingent fund. (M. C., sec. 1574.)

Revocation of license under police power: See *St. Charles vs. Hackman*, 133 Mo. 634; *State vs. Simmons*, 12 Mo. 268.

Sec. 1597. Penalty for carrying on show after license revoked.—Any person holding a license, who shall carry on his show or exhibition, or amusement known as roundabout or flying horses, more than three days after the notice of the license being revoked as stated in the preceding section has been served upon him, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than one hundred dollars. (M. C., sec. 1575.)

Sec. 1598. Officer—personation of—interfering with duties of—penalty.—Whoever shall, in this city, falsely represent himself to be an officer of this city, or shall without being duly authorized by the city, exercise or attempt to exercise any of the duties, functions or powers of a city officer or member of the metropolitan police force; or shall hinder, obstruct, resist or otherwise interfere with any city officer in the discharge of his official duties; or attempt to prevent any such officer from arresting any person, or attempt to rescue from such officer any person in his custody, shall be deemed guilty of a misdemeanor. (M. C., sec. 1513.)

Sec. 1599. Passengers—solicitation of—misdemeanor.—It shall be unlawful for any person or persons in any depot or upon a depot platform or in any railroad passenger depot in the City of St. Louis, or upon any wharfboat or steamboat at the wharf or harbor of the City of St. Louis, to solicit or cry out for passengers or baggage for any hotel, railroad, steamboat or other place, or for the carriage of such persons or baggage in any wagon, hack, omnibus or other vehicle, and any person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined, before either of the police justices, in a sum not less than five nor more than one hundred dollars for each and every such offense. (M. C., sec. 1514.)

Sec. 1600. Carriages for passengers—places for location of.—Hacks, carriages, cabs and coupes, express and baggage wagons, omnibus, hotel coaches and all other vehicles used in the transportation of passengers or baggage for hire, are hereby authorized and empowered to do business at the following places: On the south side of Poplar street, from the west line of Tenth street west to a point two hundred and eleven feet east of the east line of Twelfth street, and on the east and west side of

Eleventh street from the south line of Spruce street to the north line of Poplar street. (M. C., sec. 1515.)

This represents the boundary of the old Union Station and is now obsolete.

Sec. 1601. Posting of sections of article required.—All railroad companies having passenger depots in the City of St. Louis and all wharfboat companies having wharfboats at wharf and harbor of the City of St. Louis, and all captains of regular steamboat packets plying regularly between the port of St. Louis and elsewhere, shall have printed copies of this and the next two preceding sections posted up in at least three conspicuous places in every such depot, wharfboat or steamboat, and a failure to do so shall be deemed a misdemeanor, and upon conviction thereof, the superintendent or agent or captain thereof shall be fined as provided for in section 1599. (M. C., sec. 1516.)

Sec. 1602. Defacing or damaging property, trees, buildings, etc., penalty—duty of police.—Any person or persons who shall deface or damage any building or buildings, fence, sign, tree, tree-box, lamp-post or other property in the City of St. Louis, belonging to said city, or any property holder thereof, either by cutting, breaking, daubing with paint or other substances, marking with chalk, or the hitching of horses or other animals to a tree or tree-box, or in any other way or manner defacing, tearing down or injuring such property, shall be deemed guilty of a misdemeanor and upon conviction thereof, be fined not less than five nor more than fifty dollars; and it is hereby made the special duty of the police to enforce the provisions of this section; and with that view the board of police commissioners are requested to deliver a copy of this section to every police officer in their department. (M. C., sec. 1517.)

Sec. 1603. Removing or depositing articles from premises prohibited.—It shall be unlawful for any person, without the consent of the owner or his agent, to enter on any inclosed or improved real estate, lot or parcel of ground in the City of St. Louis, or to deposit thereon, or remove therefrom any material, substance, earth, dirt, ashes, refuse, turf or other article or thing whatsoever. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in a sum not less than ten dollars, nor more than one hundred dollars for each offense. (M. C., sec. 1518.)

Under the above section one can not be held liable for a trespass committed in a building, since its provisions apply to lands, and not buildings: St. Louis vs. Babcock, 156 Mo. 154.

Sec. 1604. Rag picking without a permit forbidden.—No person shall, without first procuring a permit from the police commissioners, engage in picking or gathering rags, paper or other articles, and such persons shall wear a badge or number and be regularly enrolled. Said permit shall not be construed to authorize the holder to deal in metal, and upon any violation of the terms thereof it shall be reclaimed by the police. Any person violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than fifty dollars. (M. C., sec. 1519.)

Sec. 1605. Junk shops—regulation of.—Any person or persons engaged in buying or selling old junk, old lead, metal or any article usually found in old junk shops, and having no stand or place of business, shall pay

a license of twenty dollars per annum, and in addition thereto a license of twenty dollars for each and every cart or wagon more than one by him used, and said license to be given only on such persons satisfying the license collector that he is a fit and proper person to receive the same, and any person or persons so dealing having a stand or place of business shall pay a license of fifty dollars per annum, and in addition thereto a license of twenty dollars for each and every cart or wagon by him used; and any one carrying on said business without a license shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than one hundred dollars. Any person or persons carrying on said business shall keep a register of names and residence of all parties from whom they purchase old lead, iron, lead pipe, books or any article whatever, new or second hand. Said register shall be kept open for the examination of the police or any citizen. Any owner or keeper of said business failing to keep such register shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five nor more than fifty dollars. It shall not be lawful for any one engaged in said business to buy or receive any property from any minor without the written consent of the parent or guardian of said minor. Should any controversy arise respecting the ownership of any property alleged to have been purchased by such person, the burden of proof shall be on said person to prove the name and residence of his vender. The provisions of this section shall apply to keepers of second hand shops and plumbers who may deal in the articles mentioned herein. (M. C., sec. 1520.)

Sec. 1606. License for any show, roundabout, etc.—permit.—Hereafter, before any license for any show or other exhibition whatever, or for the amusement known as roundabout or flying horses, shall be granted to any person by the license collector, the person or persons applying therefor shall obtain the written permit from the mayor, and present the same to the license collector. (M. C., sec. 1521.)

This section is a duplicate of section 1593.

Sec. 1607. Cruelty to animals—penalty for.—Any person who shall in this city overdrive, overload, drive when overloaded, ill-treat, torture, torment or unnecessarily or cruelly beat or needlessly mutilate, or kill, or cause or procure to be overdriven, overloaded, driven when overloaded, ill-treated, tortured, tormented or unnecessarily or cruelly beaten, or needlessly mutilated or killed, as aforesaid, any dumb animal, shall, for every such offense, be deemed guilty of a misdemeanor, and on conviction shall be fined not less than twenty dollars nor more than one hundred dollars for each offense. (M. C., sec. 1522.)

See also R. C., sec. 1558. The City of St. Louis has authority under the general welfare clause to enact this ordinance, although the same acts be misdemeanors under the statute: *St. Louis vs. Schoenbusch*, 95 Mo. 618. An ordinance fixing the maximum load of a two-horse team and wagon and prescribing a penalty against the contractor employing such team for exceeding such maximum is not void on the ground of partiality: *Kansas City vs. Sutton*, 52 Mo. App. 398. Under the State statute the intent with which cruelty is inflicted on an animal is immaterial, provided the act itself was willful and not accidental: *State vs. Hackfath*, 20 Mo. App. 614. But evidence that the horse was overdriven does not warrant a conviction under this section in the absence of proof that the overdriving was willful and not accidental: *State vs. Roche*, 37 Mo. App. 480.

Sec. 1608. Humane society—half what fines to be paid to.—One-half of all fines and penalties imposed for the violation of the next preceding section or any amendment thereto, or similar ordinance hereafter

enacted, shall, when paid and received into the city treasury, be the property of and belonging to the Humane Society of Missouri, and on the first days of January, April, July and October of each year, the auditor shall draw his warrant on the treasurer, in favor of said Humane Society, for the amount of said fines and penalties as aforesaid, received into the treasury during the preceding three months, and deliver the same to the treasurer of said society. (M. C., sec. 1523.)

Special police officer for Humane Society: R. S. Mo. 1899, sec. 6168 (State Laws for St. Louis, ante p. 182, sec. 459); Humane Society may establish drinking fountains: Rev. Code, sec. 275.

Sec. 1609. Substances injurious to animals not to be thrown on streets—penalty.—It shall be unlawful for any person to cast or place on the public streets, alleys or thoroughfares any stone, glass, iron, nails, wire or other metal or other substance whereby horses or mules or other quadrupeds or persons or vehicles may be injured. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five nor more than fifty dollars for each and every offense. (M. C., sec. 1524.)

Sec. 1610. Tying legs of calves and sheep forbidden.—It shall not be lawful for any person to confine calves or sheep by tying their legs, or in any way confine them in close boxes, or otherwise, or to have in their possession any calves or sheep so confined excepting while conveying them to and from market or places of business. Any person violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars. (M. C., sec. 1525.)

Sec. 1611. Molestation of birds forbidden.—All persons are forbidden to molest, injure or disturb in any way any small bird in the City of St. Louis, or the nest, young or brood of any small bird in said city. (M. C., sec. 1526.)

Sec. 1612. Penalty for molestation of birds.—If any person shall willfully injure, molest, take or disturb in any way any small birds, except sparrows, in the City of St. Louis, or the nest, eggs, young or brood of any such small bird, except sparrows, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay to said city not less than five dollars for each bird so by him injured, molested, taken or disturbed, and not less than twenty dollars for each nest of eggs or brood of young of any such small bird in the City of St. Louis, so by him injured, molested, taken or disturbed. (M. C., sec. 1527.)

Sec. 1613. Stones, etc., throwing of on street—penalty.—No person shall throw from his hand any fragment of stone, wood, metal or other missile capable of inflicting injury in any street, alley, walk or park of the City of St. Louis, or use or have in his possession ready for use in any street, alley, walk or park of the City of St. Louis, any sling, cross bow and arrow, air-gun or other contrivance for ejecting, discharging or throwing any fragment, bolt, arrow, pellet, or other missile of stone, metal, wood, or other substance capable of inflicting injury or annoyance. (M. C., sec. 1528.)

Sec. 1614. Stones—thrown in street—penalty.—If any person shall throw from his hand, in any alley, street, walk or park of the City of

St. Louis, any missile of wood, stone, metal or other substance, or substances, capable of inflicting injury or annoyance, or use or have in his possession ready for use, in any street, alley, walk or park of the City of St. Louis, any sling, air-gun, cross bow and arrow, or other contrivance for ejecting, discharging or throwing any missile, pellet, fragment or bolt of stone, metal, wood or other substance or substances, capable of causing injury or annoyance, he shall be deemed guilty of a misdemeanor, and on conviction thereof, be punished by a fine of not less than one nor more than twenty dollars for each offense. (M. C., sec. 1529.)

Sec. 1615. **Birds—what covered by ordinance.**—The birds intended to be protected by the next four preceding sections, shall be and are defined as all varieties of birds, except hawks, sparrows, vultures and owls. (M. C., sec. 1530.)

Sec. 1616. **Police—special duty of.**—It is the special duty of the police force of the City of St. Louis, to enforce the provisions of the next five preceding sections, and arrest and bring to trial all offenders against the same; and any member of the police force conniving at any breach of the provisions specified in the said next five preceding sections, by failing to arrest or report the offender, shall, on conviction thereof, be subject to a fine of not less than five dollars. (M. C., sec. 1531.)

[Sec. 1617. **Minors forbidden from getting on street cars while in motion—penalty.**—No minor under the age of fifteen years shall get on or attempt to get on any street car fender, or in any way attach himself or herself to any street car, or get on or off the same while such car is in motion. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not more than ten dollars for each and every offense.] (M. C., sec. 1532.)

This ordinance (Rev. Code, sec. 1617) was repealed by ordinance No. 22575, app. Oct. 2, 1906, (after the submission to the assembly of the Revised Code, hence too late to be omitted therefrom). For street-car regulations see Rev. Code, Ch. 23, Art. VI, sec. 1864. Getting on fenders forbidden: R. C., sec. 1876.

Sec. 1618. **Unauthorized vehicle or dog license tag—misdemeanor—penalty.**—Any person making use of or having in his possession any vehicle license plate or dog license tag or plate not procured at the office of the license collector of the City of St. Louis, or making use of or having in his possession a stolen or counterfeit vehicle license plate or dog license tag or plate, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than ten dollars nor more than five hundred dollars for every such offense. (M. C., sec. 20578.)

As to dog license see R. C., sec. 1637-1639; as to vehicle license plates see R. C., sec. 1815.

ARTICLE V.

SMOKE AND SMOKE ABATEMENT.*

*The present ordinances are in pursuance of Laws 1901, pp. 73-74; this act was sustained fully by the Supreme Court in *State vs. Tower*, 185 Mo. 79, as applicable to the City of St. Louis, and the right of the legislature to declare smoke as a nuisance although not such at common law per se, fully maintained,

(see this act ante page 209, "State Laws for St. Louis," Chap. 30, sec. 569-571 and cases) distinguishing *Heitzeberg vs. Packing Co.*, *infra*.

The former smoke ordinance (when there was no state law or charter provision permitting same to the city) was held void as unreasonable in *St. Louis vs. Heitzeberg Packing Co.*, 141 Mo. 375; this case held that smoke alone was not a nuisance *per se* at common law, nor is it so declared by statute, and the city cannot declare that to be a nuisance which is not so in fact, and since the ordinance declared the emission of smoke into the air a nuisance irrespective of quantity and length of time it was unreasonable and void. See cases cited in the opinion.

Ordinances 20583 and 20802 both enact in the respective first sections thereof, the provision herein appearing as the first sentence in sec. 1619, but the other parts of those ordinances differ, as appears from the sections succeeding.

As to when smokestacks are nuisances see *Whalen vs. Keith*, 35 Mo. 87; *Bank vs. Kennett*, 101 Mo. App. 370. It is held that a statute may declare emission of thick black or grey smoke from chimneys a nuisance *per se* and punish the act as an offense: See *Moses vs. U. S.*, 16 App. D. C. 428; L. R. An. 532 and discussion and citation of authorities in the opinion.

Engines and locomotives using the Poplar street track must be so constructed as to prevent offensive or dangerous emission of smoke or cinders by R. C., sec. 1859.

Sec. 1619. Dense smoke a public nuisance—who responsible for emission of smoke and when owners, agents, etc., of buildings.—The emission or discharge into the open air of dense smoke within the corporate limits of the City of St. Louis, is hereby declared to be a public nuisance. The owners, lessees, occupants, managers or agents of any building, establishment or premises from which dense smoke is so emitted or discharged, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, in any court of competent jurisdiction, shall pay a fine of not less than twenty-five dollars nor more than one hundred dollars. And each and every day whereon such smoke shall be emitted or discharged shall constitute a separate offense; provided, however, that in any suit or proceeding under this section it shall be a good defense if the person charged with the violation thereof shall show to the satisfaction of the jury or court trying the facts, that there is no known practicable device, appliance, means or method by application of which to his building, establishment or premises, the emission or discharge of the dense smoke complained of in that proceeding could have been prevented. (Ord. 20583, part of sec. 1501.)

The first clause of ord. 20583, making emission of smoke a nuisance, is the same as sec. 1 of ord. 20802, and hence is not duplicated here. This ord. repeals Mun. Code, sec. 1501-1504 inclusive, substituting other sections in lieu thereof. See also preceding note.

Sec. 1620. Same—steamboat—locomotive—exception.—The owners, lessees, occupants, managers or agents of any steamboat, tug, or other water craft, or locomotive engine from which dense smoke is emitted or discharged within the corporate limits of St. Louis to the damage, injury, annoyance or detriment of any portion of the inhabitants of said city, or to the damage, injury, annoyance or detriment of any person or persons within said city, or to the damage, injury or detriment of any property within said city, shall be guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction shall pay a fine of not less than twenty-five dollars nor more than one hundred dollars. And each and every day whereon such smoke shall be emitted or discharged shall constitute a separate offense; provided, however, that in any suit or proceeding under this section it shall be a good defense if the person charged with the violation thereof shall show to the satisfaction of the jury that there is no known practicable appliance, device, means or method by application of

which to his steamboat, tug or other water craft or locomotive engine, the emission of the dense smoke complained of in the proceeding could have been prevented. (Ord. 20802, sec. 2.)

Sec. 1621. Smoke abatement department.—In order to carry out the provisions hereof and the provisions of the act of the general assembly of the State of Missouri relating to smoke abatement in cities of one hundred thousand inhabitants, approved March twenty-first, nineteen hundred and one, there is hereby created a department to be known as the Smoke Abatement Department of the City of St. Louis. (Ord. 20583, sec. 1502.)

Sec. 1622. Smoke inspector and deputy inspectors.—For the purpose of carrying out the work of the Smoke Abatement Department the mayor is hereby authorized to appoint, subject to confirmation of a majority of the members of the council, a chief smoke inspector and such deputy smoke inspectors, not to exceed five in number, as may in the judgment of the mayor be necessary, to properly perform the work of the Smoke Abatement Department. (Ord. 20583, sec. 1503.)

Sec. 1623. Same—tenure.—Said smoke inspector and deputy smoke inspectors shall hold their respective positions during the pleasure of the mayor. (Ord. 20583, sec. 1504.)

Sec. 1624. Same—record of appointment and removal of inspectors—certificate of authority.—The appointments and removals of smoke inspectors under the provisions hereof shall be made matter of official record. Each smoke inspector when appointed shall be furnished with a certificate or written evidence of his appointment signed by the mayor, which certificate or written evidence such smoke inspector shall exhibit if required by any person upon whose premises he proposes to enter for purposes of inspection. (*Ib.*, sec. 1504a.)

Sec. 1625. Same—salaries.—For all services contemplated by the provisions hereof the chief smoke inspector shall receive from the city compensation at the rate of one hundred and fifty dollars per month, and each of said deputy smoke inspectors shall receive compensation at the rate of one hundred dollars per month, all payable monthly at the expiration of each month. (Ord. 21422, amending ord. 20583, sec. 1504b.)

Sec. 1626. Hours of smoke inspectors—removal by mayor.—Said chief smoke inspector and deputy smoke inspectors shall devote on each day to the discharge of their duties at least the number of hours provided by section eleven of article four of the City Charter, and for failure to do so or for any other reason satisfactory to the mayor they may be removed by him at any time. (Ord. 20583, sec. 1504c.)

Sec. 1627. Chief smoke inspector controls department—reports by inspectors to mayor.—Under the supervision of the mayor the chief smoke inspector shall direct and control the work of the Smoke Abatement Department and the deputy smoke inspectors and shall furnish the mayor with reports and information whenever he shall be required to do so, as herein provided. (*Ib.*, sec. 1504d.)

Sec. 1628. Powers and duties of chief and deputy inspectors—reports of deputies.—Said chief smoke inspector and said deputy smoke inspectors are hereby authorized in the performance of their duties to enter at all reasonable hours, upon and into any and all buildings, estab-

lishments, premises and enclosures, in or from which they may believe that the provisions hereof, or the said act of the general assembly of Missouri, has been or is being violated; and to inspect or examine such buildings, establishments, premises or enclosures in order to ascertain whether or not there is any known practicable device, appliance, means or method by the application of which to said building, establishment or premises the emission or discharge of dense smoke therefrom into the open air could have been or can be prevented. Said chief and deputy smoke inspectors shall collect and preserve evidence of all facts touching violation of this article, or said act of the general assembly, and said deputy smoke inspectors shall make reports of their examination and investigation to the chief smoke inspector at such times and in such manner as the mayor or chief smoke inspector may direct. (*Ib.*, sec 1504e.)

Sec. 1629. Police department to assist in smoke abatement.—

It is hereby made the duty of all patrolmen and officers of the police force of the city to assist said smoke inspectors in the performance of their duties and to report to the chief of police all violations of the laws directed against the emission of dense smoke coming to their knowledge. (*Ib.*, sec. 1504f.)

Sec. 1630. Same—chief of police to report to smoke inspector.—When reports of violations of the law are made to the chief of police by patrolmen and officers of the police force it shall be the duty of said chief of police, and as soon as practicable after such reports are received by him, to report such violations to the chief smoke inspector, whose duty it shall be to consider the same without delay. (*Ib.*, sec. 1504g.)

Sec. 1631. Interference with inspectors misdemeanor—penalty.—Any person who shall interfere with any of the smoke inspectors hereinbefore provided for in the discharge of their duties, or shall hinder or prevent any of said inspectors from entering into or upon, or from inspecting any buildings, establishments, enclosures or premises in the discharge of their duties, shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense. (*Ib.*, sec. 1504h.)

ARTICLE VI.

OF VAGRANTS.

Sec. 1632. Vagrant defined.—A vagrant under the meaning and provisions of this article shall be deemed to be:

First.—Any male or female person over the ages of fourteen and sixteen (females fourteen and males sixteen) years, whom there is reason to believe live idly, without proper and diligent effort to procure employment, and without any visible means to maintain themselves, and without any settled place of abode, and are of vicious character and depraved habits, or who shall be found loitering or rambling abroad, or wandering and lodging in groceries, tippling houses, beer houses, out houses, bawdy houses, houses of bad repute, sheds, stables, market houses, lumber yards, or in the open air, or who shall be found trespassing on the private premises of others and not give a good account of themselves, or who shall be found begging or going from door to door begging, or appearing in any street, thoroughfare, or other public place, begging or receiving alms.

Second.—Any male or female person who shall be the keeper, proprietor or exhibitor of any gaming table or device, or gamblers, or who shall be any assistant or attendant at any such gambling table or device.

Third.—Any person who, for the purpose of gaming or gambling, travels about from place to place, or frequents steamboats or other vessels at the wharf of the city, or railroads, or goes from place to place in this city for that purpose.

Fourth.—Any person upon whom shall be found any instrument or thing used for the commission of burglary, or for picking locks or pockets, and who shall fail to give a good account of the possession of the same.

Fifth.—Any person who shall be found engaged in pigeon dropping, as hereinafter defined.

Sixth.—Any person who, having once been convicted of being a vagrant, or who has the reputation of being a vagrant, shall be found in the possession of any Mexican puzzle, patent safe, strap, thimble and balls, or any other instrument or device used for pigeon dropping.

Seventh.—Any prostitute, courtesan, bawd or lewd woman, or any female inmate of any bawdy house, or house of prostitution or assignation, brothel, or house of bad repute, who shall be found wandering about the streets in the night time, or frequenting dram shops or beer houses, or any female who shall be found employed as a beer carrier, either in day or night time, or who may be found employed in singing or dancing in any such house or place.

Eighth.—Any male or female person who shall knowingly associate with persons having the reputation of being thieves, burglars, pickpockets, pigeon droppers, bawds, prostitutes or lewd women, or gamblers, or any other person, for the purpose or with the intent to agree, conspire, combine or confederate: first to commit any offense; or second, to cheat or defraud any person of any money; or third, to cheat or defraud any person of any money or property by any means which, if executed, would amount to a cheat or to obtaining money or property by false pretenses; or fourth, to commit any act injurious to the public morals, or for the perversion or obstruction of justice, or the due administration of the laws or ordinances; or fifth, who lodges in or frequents houses or other places having the reputation of being the resort of thieves, burglars, pickpockets, pigeon droppers, bawds, prostitutes or lewd women, or gambling houses, or places for the reception of stolen property. (M. C., sec. 1533.)

Under that part of clause referring to trespass "without giving a good account" there can be no conviction if defendant can give a good account of himself: *St. Louis vs. Babcock*, 156 Mo. 148.

As to clause seventh, see a somewhat similar ordinance, R. C., sec. 1518 and note thereto.

The eighth clause is unconstitutional and void, because an invasion of personal liberty; no legislative body in this country has power "to choose for our citizens whom their associates shall be" and "human acts and agencies have not yet arrived at such a degree of perfection as to be able without some overt act done, to discern and to determine by what intent or purpose the human heart is actuated": *Ex parte Smith*, 135 Mo. 223, 227-228, citing *St. Louis vs. Roche*, 128 Mo. 541, and overruling *St. Louis vs. Fitz*, 53 Mo. 582.

The first clause of the ordinance was held to be unconstitutional and void by Judge Allen of the St. Louis circuit court, in so far as permitting a conviction for merely idling, in case No. 44628a, *In re Knox*. And a State statute authorizing an alleged vagrant not convicted of crime to be hired out to involuntary servitude on a verdict of vagrancy by a justice of the peace jury is void as violative of State and Federal

Constitution: In re Thompson, 117 Mo. 83. Where a municipal charter gives power to "regulate the police" of the city, it authorizes an ordinance to punish vagrants, and it does not conflict with the general law concerning vagrants: St. Louis vs. Bentz, 11 Mo. 61; *a fortiori* where the charter gives express authority to restrain and punish vagrants and to define who shall be such: Kansas City vs. Neal, 49 Mo. App. 72.

Sec. 1633. Pigeon dropping defined.—Pigeon dropping, under the meaning and intent of this article, shall be deemed the winning or obtaining money or property, or things representing money or property, by its being bet or staked on any game, instrument, contrivance or device, under the control of any person concerned in the game, bet or stake, or of any confederate of such person, and so contrived and constructed that the result of any game, bet or stake, can be determined by either of such persons, or the borrowing of money or property, or anything representing money or property, to be bet on any such games, instrument, contrivance or device, or the inveigling, enticing or persuading any persons to be let or lend money or property, or anything representing money or property to be bet or staked on any such game, instrument, contrivance or device, or borrowing money or property on petitions or worthless notes, checks or drafts, or having them in their possession for a fraudulent purpose. (M. C., sec. 1534.)

Sec. 1634. Joint trials—when.—Two or more persons found acting together or in concert for the purpose of pigeon dropping, may be tried jointly. (M. C., sec. 1535.)

Sec. 1635. Vagrancy—on charge of—what evidence competent.—On the trial before the police justice of any person charged with being a vagrant, it shall be lawful for the city to introduce testimony as to the character and reputation of the defendant, touching any of the matters set forth in section 1632, and the defendant may resort to testimony of a like nature for the purpose of disproving said charges. (M. C., sec. 1536.)

Sec. 1636. Vagrancy—penalties upon conviction.—Any person who shall be convicted of being a vagrant, under the provisions of section 1632 shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined as follows: If under the first clause, not less than ten nor more than one hundred dollars; if under the second or third clauses, not less than one hundred nor more than five hundred dollars; if under the fourth, fifth, sixth, eighth or ninth clauses, five hundred dollars; and if under the provisions of the seventh clause, not less than ten nor more than fifty dollars, and the police justice may, in addition, require the defendant to give a bond to the City of St. Louis, with good and sufficient security in a penalty of five hundred dollars, conditioned that said defendant will, for the space of six months next ensuing the execution of said bond, be of good behavior towards all citizens, and in default thereof it shall be the duty of the police justice to commit said defendant to the workhouse, until such security be given, not exceeding six months. (M. C., sec. 1537.)

ARTICLE VII.

OF DOGS.

Sec. 1637. Dogs—not permitted in city unless tax paid.—No dog shall be permitted to be and remain within the limits of the city

unless the owner thereof shall have caused such dog to be registered and the tax imposed by this article to be paid. (M. C., sec. 1538.)

Dogs—A city has power to impose a fine upon a person for keeping a dog within its limits without having obtained a license to do so, in violation of the city ordinances: *Carthage vs. Rhodes*, 101 Mo. 175.

Sec. 1638. Amount of tax.—The tax on every dog in the City of St. Louis shall be one dollar per year, payable to the license collector for the use of the city. (Ord. 20442, amending M. C., sec. 1539.)

Sec. 1639. Tax plates to be provided.—The register shall annually procure such number as may be required of metallic plates of convenient size and shape, the shape to be changed every year, and having cast thereon in raised letters, the respective letters "C. T. P." and the figures indicating the year for which the tax has been paid; and he shall also cause to be prepared printed blanks, bound in book form and arranged in such manner that one certificate can be cut out and a stub or duplicate thereof left in the book, and the register shall, on or before the first day of January in each year (or as soon thereafter as may be), deliver to the comptroller the metallic plates aforesaid, and also an equal number of blank certificates, with stub or duplicates, as aforesaid, signed by the register, and shall charge the comptroller therewith; the comptroller shall deliver and charge such plates and certificates to the license [collector] commissioner, and the license [collector] commissioner shall account to the comptroller for every plate and certificate so furnished to him. (M. C., sec. 1540.)

Under act of 1901 creating the office of license collector, the duties and powers of the license commissioner are imposed upon the license collector; the act, in effect, abolishes the office of license commissioner, *Laws 1901*, pp. 80-82. As to penalty for unauthorized dog license plate see *R. C.*, sec. 1618.

Sec. 1640. Delivery of tax plates—certificate.—In every case wherein application shall be made to the license [collector] commissioner for a license for any dog, that officer shall deliver to the applicant a metallic plate having the number corresponding with that of the license stamped thereon, and shall also deliver to such party a certificate from the book furnished to him by the comptroller, which said certificate as well as the margin or part thereof remaining in the book after cutting out the certificate shall contain the number of the license, the year for which the same is granted, the name and residence of the owner of the dog, and the sex, and a correct description of the dog for which the license is paid, and the amount of tax paid therefor. (M. C., sec. 1541.)

Sec. 1641. Owner—duty of.—It shall be the duty of the owner of every registered dog to put around the neck of such dog a collar not less than three-quarters of an inch in width, to which shall be attached with a metallic fastening the metallic plate aforesaid. (M. C., sec. 1542.)

Sec. 1642. When dogs to be impounded.—It shall be the duty of the city marshal and his deputies and assistants to take up and impound in a suitable place—of the location of which place he shall give notice by posting a card or notice in some conspicuous place in his office, and by posting a similar card or notice in the office of the license [collector] commissioner—all dogs found in the City of St. Louis without a collar around their neck, marked as herein provided, or which may be found running or being at large unmuzzled, contrary to the provisions of any order issued by the board of health, as hereinafter provided in section 1644 shall be impounded. (M. C., sec. 1543.)

Sec. 1643. Penalty for failure to pay tax.—Every owner of a dog, and every person who shall suffer or permit a dog to remain upon any premises under his immediate control without having caused such dog to be registered and the tax thereon to be paid as provided by this article, shall be guilty of a misdemeanor, and fined not less than five nor more than fifty dollars. (M. C., sec. 1544.)

Sec. 1644. Dogs—running at large, when prohibited.—Whenever the board of health shall deem it necessary, on account of the prevalence of hydrophobia, or for sanitary purposes, it shall be their duty to make an order prohibiting for a certain time, all dogs from running at large on any street or other public place in this city, unless such dog be securely muzzled or led by a line, so as to effectually prevent them from biting any person or animal, which order shall be published in the papers having the contract for the city printing, and all dogs found running at large unmuzzled, contrary to the provisions of such order, shall be taken up and impounded as in section 1642 provided; and all dogs taken up and being impounded for being at large in violation of such order, may, if the owner satisfy the city marshal, by his own oath or other testimony, that no blame attaches to him for permitting such dogs to go at large in violation of the provisions of such order of the board of health, be redeemed as unregistered dogs are redeemed from the dog pound, and upon the payment to the city collector [license collector] of three dollars for the use of the city and the fee of the pound keeper. (M. C., sec. 1545.)

Sec. 1645. Redemption fee, amount of.—For every dog taken up and confined in the dog pound, as provided in sections 1642 and 1644 of this article, for which no tax has been paid, a redemption fee of three dollars, together with the amount of the license, shall be paid to the city [license] collector for the use of the city, and upon procuring the certificate of the city [license] collector, stating that said amount has been paid, and paying further sum of fifty cents to the pound keeper for taking up such dog, the owner thereof, within three days after the impounding, or any other person after three days shall be entitled to redeem such dog, and if the dog shall not be and is not redeemed within three days after being taken up he shall be slain by the pound keeper; and the person taking up such dog shall receive therefor the sum of fifty cents, and the pound keeper the sum of twenty-five cents, to be paid out of the city treasury; but if it shall be made to appear to the satisfaction of the city [license] collector by the affidavit of the owner or by other sufficient testimony, that any person claiming to redeem a dog confined in the dog pound has registered such dog and has put around his neck a collar stamped and marked as provided in section 1641, but that such collar has been accidentally displaced or lost, the city [license] collector may deliver to him a metallic plate, as described in section 1640, to correspond with the registry, without any additional charge therefor, except the fee of twenty-five cents, to be paid to the city [license] collector for the use of the city. (M. C., sec. 1546.)

Sec. 1646. Dogs to be killed—when.—It shall be the duty of the city marshal and his assistants to kill any dog which may be found in the City of St. Louis without an owner, and without a collar stamped or marked as provided in section 1641, or found at large contrary to the orders of the board of health; provided, such dog cannot be safely taken up and impounded. But it shall not be lawful for any officer of the City of St. Louis or other person to shoot or use poison for the purpose of killing any such dog, or to shoot or use poison for the purpose of killing

any dog at any other place than the dog pound; and any officer of the City of St. Louis, or other person, who shall entice any dog so collared out of the inclosure of the possessor of such dog, or who shall molest or seize any dog while held or led by any person, or who shall bring into the city any dog for the purpose of taking up and impounding the same, shall, on conviction, be fined in a sum not less than five nor more than fifty dollars. (M. C., sec. 1547.)

Sec. 1647. **Dangerous dogs—may be killed.**—If any fierce or dangerous dog shall be found at large in the streets of St. Louis, or upon any public place, or upon the private premises of other persons than those of the owner of the dog, and shall there annoy or endanger any person therein, the owner thereof shall forfeit and pay to the City of St. Louis a sum of money not exceeding fifty dollars for the first offense on the part of said owner, in permitting such fierce or dangerous dog to go at large; and moreover, it may be part of the sentence upon such conviction, that such fierce or dangerous dog be immediately killed, and this sentence shall be forthwith executed by the city marshal, for which he shall receive the further sum of five dollars, to be paid by the owner of said dog, which sum shall be included in said judgment. (M. C., sec. 1548.)

Sec. 1648. **Word “dog” defined.**—The word “dog,” whenever used in this article without qualification, is intended to mean a female as well as a male dog. (M. C., sec. 1549.)

Sec. 1649. **Moneys to be paid into treasury.**—The city [license] collector shall, on the Monday of every week, pay to the city treasurer all moneys by him collected under the provisions of this article, during the preceding week, and all orders for the redemption of impounded dogs, and all receipts given by the city [license] collector for redemption fees or other moneys received by him under the provisions of this article, shall be signed by the city register, and countersigned by the comptroller, and charged to the city [license] collector. (M. C., sec. 1550.)

ARTICLE VIII.

OF PENALTIES, FINES AND FORFEITURES.*

Sec. 1650. **Punishment where no specific penalty prescribed.**—Any person who shall be convicted of any misdemeanor under any provision of this chapter, in a case where no special penalty is prescribed, shall be fined not less than five nor more than five hundred dollars for the first offense; for the second offense of a like nature, he shall be fined not less than double the minimum penalty aforesaid; for the third offense of a like nature, not less than treble said minimum; and so on, increasing the minimum five dollars upon each additional conviction. (M. C., sec. 1551.)

Sec. 1651. **Misdemeanor defined.**—The word misdemeanor whenever it occurs in this chapter, shall be construed to mean and to stand in lieu of “violation of ordinance.” (M. C., sec. 1552.)

*Charter, Art. III, sec. 26, clause 10. For general note on misdemeanors see note to R. C., sec. 1265, referring also to the various charter provisions authorizing and limiting the city's authority by ordinance to provide for fines, penalties, forfeitures, and the remission or stay thereof, and the enforcement by confinement, etc.; also discussing the nature of the proceeding for violation of an ordinance, to what extent civil or criminal, how brought, their function in the municipality, procedure at the trial, their constitutionality, etc. And see note to sec. 1279 as to the form and sufficiency of the statement or information.

Sec. 1652. Amount of fine, when none declared.—Whenever, in the ordinances of the City of St. Louis, or either of them, the doing of any act, or the omission to do any act or duty, is declared to be a breach of any, or either of said ordinances, and there shall be no fine or penalty declared for any such breach, any person or persons convicted of any such breach shall be fined not less than five dollars and not exceeding three hundred dollars. (M. C., sec. 1553.)

Sec. 1653. Maximum of fine, when not prescribed.—Whenever, in any ordinance of the city heretofore or hereafter passed, a fine, forfeiture or penalty is, or may be prescribed, at not less than a given sum, but the maximum of such fine, forfeiture or penalty is not likewise fixed, such maximum shall be as follows, to-wit: If the minimum of such fine, forfeiture or penalty shall be less than one hundred dollars, the maximum shall be three hundred dollars; if the minimum be one hundred dollars or above that sum, the maximum shall be five hundred dollars, and it shall be lawful in any such case to recover the maximum aforesaid in like manner as if the same were specially set forth in any such ordinance. (M. C., sec. 1554.)

CHAPTER 19.

OF MULLANPHY EMIGRANT RELIEF FUND.*

Sec. 1654. Board commissioners established.—There is hereby constituted and established a board of commissioners to be styled "The Board of Commissioners of the Mullanphy Emigrant Relief Fund," which shall be composed of thirteen members, not more than five of whom shall reside in one congressional district. (M. C., sec. 1555.)

See Charter, Art. XVI, sec. 3, and the preceding note.

Sec 1655. Commissioners—how elected—terms.—The council shall elect said board by ballot. Five members of said board shall be

*These ordinances relating to the Mullanphy Emigrant Relief Fund grow out of the following provision in the will of Bryan Mullanphy, who died June 15, 1851: "One equal undivided third of all my property, real, personal and mixed, I leave to the City of St. Louis, in the State of Missouri, in trust, to be and constitute a fund to furnish relief to all poor emigrants and travelers coming to St. Louis on their way, *bona fide*, to settle in the west." The bequest was accepted by ordinance 2724. This provision in the will was upheld as valid in *Chambers vs. St. Louis*, 29 Mo. 543, and the charity has ever since been administered by the city, (subject to the control of a court of equity). The intended objects of the bequest becoming largely obsolete by the changed conditions, ord. 19237 was enacted, providing that the mayor institute legal proceedings to obtain authority to apply the fund to charitable purposes other than those directed by the testator. This litigation attained the peculiar results commented on in *St. Louis vs. Crow*, 171 Mo. 272. Since the legal title as trustee only is in the city, and the real use of the fund is not for municipal purposes, but for the benefit of a particular class, the fund is not exempt from taxation under the constitution: *St. Louis vs. Wenneker*, 145 Mo. 230. The tax should be assessed against the city as trustee, not to the "Mullanphy Emigrant Fund": *ib.*, p. 239.

Where there is no competent evidence to show that a surveying company was employed by the board, as such, nor that it accepted the fruit of plaintiff's work, there can be no recovery; and evidence that individual members of the board unofficially directed the work, is inadmissible in a suit against the city as trustee of Mullanphy bequest: *Surveying Co. vs. St. Louis, Trustee, etc.*, 68 Mo. App. 182, holding that the only proper evidence of the acts of the board, outside of those falling within the scope of authority vested in its officers, is the record of the board.

elected to hold their office for a term of three years, and until their successors are duly elected and qualified, four to hold for two years, and until their successors are duly elected and qualified, and four to hold for one year, and until their successors are duly elected and qualified. And on the second Tuesday in June in each year, thereafter the council shall elect by ballot, persons to fill the vacancies existing in said board, caused by the expiration of term of office; and the members thus elected shall hold their office for three years, and until their successors are duly elected and qualified. (M. C., sec. 1556.)

Sec. 1656. **Vacancies—how filled.**—In case of a vacancy occurring in said board otherwise than by the expiration of the term of office, the board shall immediately notify the council, if in session, or if not, then at the next ensuing session thereof, of the vacancy existing in said board; stating from what congressional district the member causing such vacancy was elected, and the cause of such vacancy, if known, whereupon the council shall proceed to elect by ballot, a commissioner of said board, to fill the vacancy for the balance of the term. (M. C., sec. 1557.)

Sec. 1657. **Mayor—ex-officio member.**—The mayor of the City of St. Louis, for the time being, shall be ex-officio a member of the board of commissioners. (M. C., sec. 1558.)

Sec. 1658. **Commissioners to receive no compensation.**—The members of said board shall receive no compensation for their services. (M. C., sec. 1559.)

See Charter, Art. XVI, sec. 3.

Sec. 1659. **Officers of board.**—The board shall elect a president, vice-president, secretary, assistant secretary and such other officers as may be deemed necessary to carry out the purposes for which the fund was constituted by its founder, namely to furnish relief to all poor emigrants and travelers coming to St. Louis on their way, bona fide, to settle in the west. The officers of this board shall be elected for one year, except the secretary and assistant secretary, who shall be elected every three years. (M. C., sec. 1560.)

See note at head of this chapter.

Sec. 1660. **Board—duties of.**—The board of commissioners shall take and hold in trust for the City of St. Louis, for use of the emigrant relief fund, all lands, moneys, bonds, notes and other evidence of indebtedness, and all property of whatever description, to which the City of St. Louis may now, or shall hereafter, be entitled, by virtue of the will of the late Byran Mullanphy, deceased, or which may be given or bequeathed, to be applied to the benefit of said "emigrant relief fund." The said board shall have the right to institute suit in the name of the City of St. Louis, trustee of the Mullanphy bequest, for the lands, moneys or other property due, or of right belonging to said fund. (M. C., sec. 1561.)

Sec. 1661. **Board—powers of.**—The board of commissioners are invested with the control, management and direction of the property and affairs of said fund, and shall have full power to make all needful regulations and by-laws for its governance, not in conflict with this article or any city ordinance. They shall appoint from their own number an auditing committee and other committees, and shall conduct the concerns of the fund

agreeably to the requirements of its founder and the ordinances passed for the management of this fund. (M. C., sec. 1562.)

See 1662. **Board—meetings of.**—The board shall meet at least once every month, on any day and hour, to be fixed by resolution of the board. The president may, and upon written request of three members shall, call special meetings, give due notice in writing to the other members of the board, and at all meetings seven members shall constitute a quorum to do business, but a less number may adjourn from day to day and compel the attendance of absentees. (M. C., sec. 1653.)

See 1663. **Board—records and reports of.**—The board shall keep a full and correct account of its proceedings, and shall make reports semi-annually to the municipal assembly, giving detailed statements of the operations of the board, of all receipts and expenditures, showing all amounts paid out, to whom paid and for what paid, and the general condition of the fund. The officers appointed by the board shall make reports to the same, as it may from time to time require; and it shall be the duty of the auditing committee of the board to examine the accounts, books and vouchers of the officers, and to make report thereof to the board of commissioners once every month; and the said reports, as well as the books of the board, shall be subject to inspection by any member of the municipal assembly. (M. C., sec. 1564.)

See *Surveying Co. vs. St. Louis*, 68 Mo. App. 182. See opening note of this chapter.

See 1664. **Officers—duties of, bonds and salaries.**—The board shall, in their by-laws, prescribe the duties of the respective officers and fix their salaries, which shall not exceed two thousand dollars per annum for the secretary and fifteen hundred dollars for the assistant secretary, who shall be able to speak the English and German languages. The board shall require and take from its officers proper and sufficient bonds, with at least two good securities; that of the secretary to be in the amount of twenty-five thousand dollars, and that of the assistant secretary to be in the amount of five thousand dollars; said bonds being conditioned for the faithful discharge of their duties, and for the safe-keeping and proper expenditure of all money and property that may come into their hands. But no member of the board or of the municipal assembly shall be taken as a bondsman or security on any bond or writing obligatory for the fund, nor shall any of the board become a lessee of any lands or property of the fund, either as contractor, subcontractor for work or material, or in any other way; and whenever it shall come to the knowledge of the board that any member thereof is in anywise pecuniarily interested in said fund, his office shall be vacated, and the president of the board shall report the same to the council for their action as soon as practicable.* The board may, from time to time, prescribe such additional duties to their respective officers as they shall deem proper, and may at their pleasure suspend or remove from office any of their appointed officers, and the salary of such officers, when suspended or removed, shall cease from the date of their suspension or removal, and every officer shall, upon going out of office, deliver to the board or his successor, all books, papers, furniture and other things appertaining to his office. (M. C., sec. 1565.)

*See Charter, IV, sec. 10, and notes, as to city officers interested in city contracts.

See 1665. **President—duties and powers of.**—The president shall be the chief executive officer of the Mullanphy Emigrant Relief Fund,

and shall have care and control of everything connected therewith; he shall see that the secretary and other officers diligently discharge their respective duties, and upon failure thereof, shall make report of facts to the board. He shall sign all deeds, leases, contracts and orders for money exceeding the amount of ten dollars, and shall aid and advise the officers in giving relief to poor emigrants; provided, that he shall at all times exercise the powers and perform the duties herein mentioned according to the by-laws, rules and regulations adopted by the board. The president shall receive no compensation for his services. (M. C., sec. 1566.)

Sec. 1666. **Vice-president—duties of.**—The vice-president shall perform the duties of the president in case of his absence from the city or inability to serve. (M. C., sec. 1567.)

Sec. 1667. **Secretary—duties of.**—The secretary shall be a man of experience, possessing the necessary general qualifications. He shall not, while secretary, engage in any other business, but shall devote himself exclusively to the duties of his office. He shall keep a record of the proceedings of the board, which shall be published within five days after each meeting in the newspapers doing the city printing. He shall keep accurate accounts by double entry, of all transactions, shall have in charge and keep in order all books and papers pertaining to his office. He shall follow and carry out the instructions of the board, and shall keep the same informed of all matters relating to its affairs. He shall be responsible for all rents and other revenue of the fund coming into his possession, and every day as collected, shall deposit the money on hand in some banking institution designated by the board; the said bank receiving the deposit account of this fund shall give bond in the sum of fifty thousand dollars, to be approved as all other bonds, by the board of commissioners. The secretary may retain in his possession a sum not exceeding one hundred dollars, to pay claims, or to grant relief in amounts of not more than ten dollars each, and for all such payments he shall keep strict account and submit the same to the auditing committee for approval. He shall use his best endeavors to collect all information needful for the benefit of emigrants and travelers, and to enable them to find suitable locations for settlement, and work and employment. He shall keep registered for this purpose, as far as possible, the names of manufacturers, farmers, etc., who may be in want of hands, and he is to give emigrants all aid, advice and information free of charge. (M. C., sec. 1568.)

Sec. 1668. **Assistant secretary—duties of.**—The duties of the assistant secretary shall be to assist the secretary in the performance of his duties, and, under the order of the board, he shall visit all the boats, trains of cars, etc., arriving with emigrants and travelers, make himself known to them and give them such information on the spot as they may need; and when they need assistance he shall, under regulations to be adopted by the board, take them to such place as may be provided for that purpose. When the emigrants are poor and in want they shall be relieved under regulations to be prescribed by the board, and it shall be the special duty of the assistant secretary to protect emigrants and travelers from impositions and false information attempted by runners, and upon their departure this officer shall procure their tickets and superintend their shipment for their point of destination; but in all this he shall act as the assistant of the secretary only; shall keep the same fully informed and shall not pay out money except under the instructions or at the written order of the president. The assistant secretary shall not be permitted to engage in any other business, nor to receive

any compensation from emigrants, nor from employes, nor from any hotel, boarding-house or transportation line, or from persons engaged in any other business whatever. (M. C., sec. 1569.)

Sec. 1669. **Poor emigrants—how provided for.**—In order that relief may be furnished to poor emigrants and travelers coming to St. Louis on their way, bona fide, to settle in the west, and who may not be able to proceed at once to their point of destination, or to find employment, they shall be provided for under such regulations as may be prescribed by the board. (M. C., sec. 1570.)

Sec. 1670. **Officers—where located—hours.**—The officers of the board of commissioners of the Mullanphy Emigrant Relief Fund, and that of the secretary and assistant secretary, shall be located in some convenient point in the city, within the following limits, to-wit: North of Chouteau avenue, south of Washington avenue and east of Eighth street. This office shall be open from nine o'clock a. m., to four o'clock p. m. each day in the week, Sunday and the usual legal holidays excepted; and on these exceptional days the office may be open for one hour, as the board may determine by its by-laws. No real estate or other private business shall be permitted to be carried on in the office. (M. C., sec. 1571.)

Sec. 1671. **Real estate—how sold or leased.**—No real estate of the fund shall be sold without express permission by ordinance of the municipal assembly. No real estate of the fund shall be leased for a longer period of time than ten years, renewable for two terms of ten years each, upon the value and rental to be fixed by the board, with all taxes excepting special taxes for public improvements, which shall be paid by the said board. No member or officer of said board shall be interested directly or indirectly in the purchase of any property of said fund, or in the leasing of any property owned by said fund; and no member shall receive any compensation for his service either directly or indirectly. (M. C., sec. 1572.)

Sec. 1672. **Vacancy—when deemed to exist.**—The seat of any member of said board, who shall fail to attend three successive monthly meetings without good and sufficient excuse for absence, shall be deemed thereby to be vacated, and the president and secretary shall give immediate notice to the council as soon as practicable, of the existence of such vacancy, and thereupon the council shall proceed to fill it. (M. C., sec. 1573.)

CHAPTER 20.

OF OFFICERS.

- ART. I. Of their appointment, qualifications and duties.
 II. Of their suspension and removal.
 III. Of public property in their charge.
 IV. Of private watchmen.

ARTICLE I.

OF THEIR APPOINTMENT, QUALIFICATIONS AND DUTIES.*

*Officers must personally devote time to duties; Const., Art. II, sec. 18; Chart., Art. IV, sec. 11 and see note thereto.

Sec. 1673. Qualifications—shall hold only one office.—Every person elected or appointed to an office under the city shall possess the qualifications enumerated in section ten of article four of the charter, as well as such other qualifications as may be prescribed; and no such person shall hold any state office other than notary public, or officer of the militia, nor any federal office. (M. C., sec. 1574.)

See Charter, Art. IV, sec. 10 and discussion in the note thereto.

Sec. 1674. Commission required.—No person shall perform the duties of an office to which he is elected or appointed until commissioned as hereinafter provided. (M. C., sec. 1575.)

See sec. 1679.

Sec. 1675. Oath to be taken.—Every person so elected or appointed shall, before entering upon the duties of his office, take and subscribe an oath or affirmation before some judge or justice of the peace or the register, that he possesses all the foregoing qualifications, that he will support the constitution of the United States and of the State of Missouri and the charter and ordinances of the City of St. Louis, and that he will faithfully demean himself in office. (M. C., sec. 1576.)

See Chart., Art. IV, sec. 43; also Art. XVI, sec. 13.

Sec. 1676. Bond to be given.—Every officer of the corporation, when so required by law or ordinance, shall, within fifteen days after his election or appointment, and before entering upon the discharge of the duties of his office, give bond to the city in such sums as shall be designated by ordinance, with at least two sufficient securities, conditioned for the faithful performance of his duties as such officer and that he will pay over all moneys that belong to the city as provided by law. (M. C., sec. 1577.)

All officers required to give bond; Chart., IV, secs. 4 and 43.

Sec. 1677. Approval of bond.—The form of such bond shall be approved by the city counselor, or, in his absence or inability to act, by the next ranking associate or assistant city counselor, and the sufficiency of the security thereon by the mayor and council; provided, that no person shall be accepted as security on such bond who at the time is a member of the municipal assembly or an officer of the city. (M. C., sec. 1578.)

As to approval see next section. An officer may bring mandamus to compel approval of a bond where such approval is unlawfully withheld: *State ex rel. vs. Shannon*, 133 Mo. 139. Approval by city counselor, where there is no ordinance to that effect, is not necessary: *ib.*

Sec. 1678. Mayor to approve official bonds, etc.—The Mayor shall approve the bonds of all appointed and elective officers; also bonds of constables in the city and all other bonds to the City of St. Louis, except in such cases as may be otherwise provided for by ordinances or charter, and he shall execute all appeal bonds and other bonds which, by law or ordinance, are required to be executed by the city. (M. C., sec. 1579.)

Approval of bonds of city officers: See Charter, Art. IV, sec. 4; also Rev. Code, sec. 1506; as to appeal bonds by city see *ib.*, Art. XVI, sec. 6, and note thereto. As to bonds of constables see R. S. 1899, sec. 6532 (herein appearing under "Laws Specially Applicable to St. Louis" as sec. 197); also Scheme, sec. 15.

Sec. 1679. Commission—conditions of—issue of.—The bond and oath herein required, when executed and approved, shall be filed with

the register and thereupon the register shall deliver to the person elected or appointed, except members and officers of the municipal assembly, a commission in the name of and signed by the mayor, and under the seal of the city, authorizing and empowering such person to discharge the duties of the office for the term for which he has been elected or appointed, and until his successor shall have been duly elected or appointed and commissioned. (M. C., sec. 1580.)

Sec. 1680. New bond—to be given when.—Whenever any surety of any officer of the city shall die, remove from the city, or become insolvent, and the mayor shall have reason to believe the sureties on the bond of said officers are likely to, or have become insufficient, the mayor shall require such officer at a time to be appointed, to show cause why a new bond shall not be given, and unless cause be shown, the officer shall be required within twenty days to enter into a new bond, and in default thereof, the office shall be vacant and shall be so declared by the mayor by proclamation. (M. C., sec. 1581.)

Sec. 1681. Foregoing section—to whom to apply.—The provisions of the next foregoing section shall apply to all elective and appointive officers of the city who are by law or ordinance required to give an official bond to the city. (M. C., sec. 1582.)

Sec. 1682. Bond examining board established.—There is hereby created and established a board to be known and called “the Board for the Examination of Official Bonds,” to be composed of the comptroller, the auditor and city counselor; and the comptroller shall be president thereof. (M. C., sec. 1583.)

Sec. 1683. Duties of board.—It is hereby made the duty of said board, on the first Mondays of January, April, July and October of each year, to carefully examine all official bonds held by the city, and as soon as practicable after each of such examinations, not exceeding ten days after said first Mondays, to report in writing to the mayor, any and all bonds which are not in due form of law, or of whose solvency there is any reasonable doubt. (M. C., sec. 1584.)

Sec 1684. Duties—neglect of, penalty.—Any failure or neglect on the part of any one of said board to perform the duties imposed by the next two preceding sections, shall be a misdemeanor, and upon conviction thereof, the offender shall be punished by a fine of not less than twenty-five dollars nor exceeding five hundred dollars. (M. C., sec. 1585.)

Sec. 1685. Officers—when to be nominated.—On or before the third day of the annual session of the municipal assembly, in the year one thousand eight hundred and eighty-seven, and every four years thereafter, the mayor shall nominate to the council for confirmation the names of suitable persons to fill the several offices under the city government which are required to be filled by his appointment and confirmed by the council. (M. C., sec. 1586.)

See enumeration of certain officers, *ante* sec. 1509 of R. C. See for officers appointed by Mayor under ordinances, index to Rev. C. under “Mayor”; for officers appointed by Mayor under charter provisions, index to charter, same title.

Sec. 1686. Mayor’s approval of appointment of deputies, assistants, clerks—their removal.—The mayor shall approve the appointment of all the deputies, assistants and clerks of all city officers, as

are required by charter or ordinance to be so approved, before such deputies, assistants and clerks shall be qualified for the positions for which they have been appointed, and for cause may remove any deputy, assistant or clerk employed in any of the city departments. (M. C., sec. 1587.)

The assistants of any officer may be removed for cause by the mayor, or by the officer under whom they work, at his pleasure: Charter, Art. IV, sec. 14; State ex rel. vs. Longfellow, 93 Mo. App. 364; State ex rel. vs. Longfellow, 95 Mo. App. 660; *Magner vs. St. Louis*, 179 Mo. 495, 498. As to removal and suspension of officers see next article.

In some cases appointments so far as the public are concerned may be implied from acts by the city: *Kiley vs. Forsee*, 57 Mo. 390; and an approval by the mayor implied: State ex rel. vs. Edwards, 136 Mo. 360; *Westberg vs. K. C.*, 64 Mo. 493.

Sec. 1687. Office—change of residence—when to vacate.—Any officer of the city who shall leave the same, with the intention of residing thereout, shall thereby vacate his office, and thereupon the proceedings provided in case of vacancy shall be had. (M. C., sec. 1588.)

All municipal officers must reside in the city: Charter, IV., sec. 19.

Sec. 1688. Leave of absence may be granted by mayor.—The mayor may grant in writing a temporary leave of absence to any officer for a term not exceeding twenty days, which shall be filed with the register, and any officer absenting himself from the city for the period of one week without such leave, shall thereby vacate his office, and no officer shall receive any salary during the time he is absent from the city without leave. (M. C., sec. 1589.)

But the salary deduction does not apply to the mayor: See note to sec. 1487.

Sec. 1689. Office—elective—vacancy in, how filled.—If any vacancy, other than by removal from office, occur, in an elective office, within six months from the expiration of the time for which its incumbent shall have been elected, the council shall, except where otherwise provided by ordinance, by election fill the vacancy for the unexpired term, except in case of the mayor's office, which, if it becomes vacant within six months from the expiration of the mayor's term, shall be filled by the president of the council, who shall be ex-officio and acting mayor for the unexpired term. (M. C., sec. 1590.)

See Charter, Art. IV, secs. 12 and 13, and Art. III, sec. 26, clause 8, and notes to each, and see R. C., sec. 1513, 1514, as to removal of mayor.

"An office is vacant within legal intendment, and for all purposes of election or appointment, as well when the official term of the occupant has expired, as in case of his death, resignation or removal": State ex rel. vs. Thomas, 102 Mo. 85, 91, overruling State vs. Lusk, 18 Mo. 333. An appointee for a designated term who holds over because of a failure by the appointing power to name a successor is a mere locum tenens, removable at will; and his successor when appointed only holds for the balance of the unexpired term reckoning from the time of the expiration of the regular term of the former incumbent: State vs. Stonestreet, 99 Mo. 361.

Sec. 1690. Special election—when held.—A vacancy occurring in an elective office more than six months before the expiration of the term thereof, shall be filled by a special election, which shall be immediately ordered by the mayor for the purpose, and five days' public notice of the time and place of holding any special election shall be given. (M. C., sec. 1591.)

Charter, Art. III, sec. 26, clause eighth, authorizes this ordinance: State ex rel. vs. Thomas, 102 Mo., 85, 89 (upholding the validity of this section as being within the charter powers of the city.) See also note to Charter, Art. IV, sec. 13.

ARTICLE II.

OF THEIR SUSPENSION AND REMOVAL.*

Sec. 1691. Officers—what conduct misdemeanor entailing removal.—Any officer of the city who shall refuse or wilfully fail or neglect to perform any duty enjoined upon him by law or ordinance, or shall in the discharge of his official duties be guilty of any fraud, extortion, oppression, favoritism, partiality or wilful wrong or injustice, shall be deemed guilty of a misdemeanor, and shall be removed from office. (M. C., sec. 1592.)

See State ex rel. vs. Walbridge, 119 Mo. 383, and note to Charter, Art. IV, sec. 5.

Sec. 1692. Elective officer—when may be suspended by mayor.—The mayor shall have power to suspend from office for cause any elective officer of the city, and he shall immediately notify the council of such suspension and the causes thereof. (M. C., sec. 1593.)

Sec. 1693. Suspension—how effected.—Such suspension shall be effected by an order filed by the mayor with the register, accompanied by a statement of the charges upon which the same is founded, a copy of which order and charges shall be immediately delivered to the officer suspended, who shall thereupon cease to exercise any of the duties of the office from which he shall have been suspended. (M. C., sec. 1594.)

Sec. 1694. Vacancy by suspension—how filled.—Immediately upon the suspension of an officer the mayor shall appoint a person to fill the office for the time being. (M. C., sec. 1595.)

Sec. 1695. Charges—transmission to council—special session.—The charge preferred as aforesaid shall be immediately laid by the mayor before the council, if in session, and if the council is not in session, he shall by proclamation, call a special session of the council, giving not less than three days' notice, and stating the object for which the council is convened, and for the purposes of the special session of the council thus convened. It shall not be necessary to convene the house of delegates. (M. C., sec. 1596.)

See Charter, Art. IV, sec. 6.

Sec. 1696. Committee of prosecution to be appointed.—The council shall appoint a committee to inquire into the truth of the charges, and if the committee deem the same well-founded, they shall frame and report charges against the officer, and the council shall appoint a day for hearing the same. (M. C., sec. 1597.)

Sec. 1697. Charges and notice to be served.—A copy of the charges and specification, with a notice of the day set for hearing the same, shall be served on the accused at least five days before the day of hearing. (M. C., sec. 1598.)

Sec. 1698. Procedure upon trial.—Upon the day set, the council shall meet and proceed according to its rules and hear the evidence against

*For Charter provisions on suspension and removal of officers, etc., see Art. III, sec. 26, clause 8; and especially Art. IV, secs. 5, 6, 7, 8, 11 and 14 and notes thereto. See discussion and authorities in note to Charter, Art. IV, sec. 5.

and for the accused, adjourning from time to time, as may be necessary, until all the evidence shall be given, and within three days after the evidence is closed, shall vote by yeas and nays upon each charge and specification separately. The question upon each charge shall be "Is the accused guilty?" If the council, by a majority vote of all the members elected shall find the accused guilty of any of the charges, and shall, by resolution, sanction the action of the mayor and resolve that the accused be removed from office, the suspended officer shall thereby be removed from office and a new election shall be ordered to fill the vacancy. But if a majority disagree with the mayor, the accused shall be immediately reinstated. (M. C., sec. 1599.)

Sec. 1699. Proceedings to be entered on journal.—The proceedings of the council as aforesaid, shall be entered at large on the journal. (M. C., sec. 1600.)

Sec. 1700. Subpoenas—by whom issued, etc.—Subpoenas may be issued by the president of the council, and served and returned by the city marshal, and any witness who shall neglect to obey such subpoenas or appearing, shall refuse to testify, may be punished by imprisonment or fine, or both. (M. C., sec. 1601.)

Sec. 1701. Depositions—when may be taken.—Depositions of witnesses beyond the jurisdiction of the council, or disabled by sickness or other causes from attendance, may be read on the trial, if taken in conformity to the laws of the state; when taken on behalf of the accused, notice shall be served on the city attorney or city counselor, if the latter be representing the prosecution. (M. C., sec. 1602.)

Sec. 1702. Accused and city—how represented.—Upon the trial, the accused shall be entitled to be heard by himself or counsel in his defense, and the city attorney shall prosecute, on behalf of the city, unless he be the accused, in which event the counselor shall prosecute. (M. C., sec. 1603.)

Sec. 1703. Removal of appointive officer—proceedings in case of.—Whenever the mayor shall remove any appointed officer from office, he shall immediately notify the council of such removal and the causes therefor; and said council shall fill the vacancy by electing a suitable person to fill the place. If the council be not in session, the mayor shall temporarily fill the vacancy and shall report the fact of the removal at the next session of the council. The mayor shall have the same power of removing an officer so elected as if he had been appointed by the mayor. Whenever the council shall remove any officer appointed by the mayor, the mayor shall fill the vacancy by another person and no confirmation by the council shall be required. (M. C., sec. 1604.)

See on subject of removal of officers, discussion in note under Charter, Art. IV, sec. 5.

Sec. 1704. Officers—appointed, may be removed by council—mayor fills vacancy—special session.—All officers appointed by the mayor shall be subject to a removal by a majority of the elected members of the council, and if so removed the mayor shall fill the vacancy by another person and no confirmation of the council shall be required. Whenever the removal of any officer by the council be proposed, and the same is

not in session, the president thereof shall, upon a request, in writing, of five of its members, call a session thereof for the consideration of such removal. (M. C., sec. 1605.)

See Charter, Art. IV, secs. 8 and 12.

Sec. 1705. In case of suspension no salary allowed.—No officer shall receive any salary during the time he is suspended by the mayor, nor until the council shall decide the case. (M. C., sec. 1606.)

In *State ex rel. vs. Carr*, 3 Mo. App. 6, it was held under this section by the court of appeals that one suspended for trial who is afterwards acquitted may recover the salary for the time suspended; but in general it is held that one legally suspended from office cannot recover compensation during the period of suspension, whether afterward acquitted or not; but, (until removed or suspended for cause) the salary is an incident to the office and is to be paid an officer of the city whether or not he neglects his duties: See on these and similar points note to Charter, Art. XVI, sec. 17; also note to *ib.*, Art. IV, sec. 5.

Sec. 1706. Officers—removal of, by council—condition of.—Whenever the council shall, of their own motion, proceed to remove or consider the removal of any elected city officer, as provided in section twelve of article four of the charter, a committee of the council appointed for that purpose shall frame and submit charges, and the trial thereof shall be had as provided in sections 1697, 1698, 1699, 1701 and 1702, except that upon such trial a two-thirds vote of all the members of the council is required for the removal of the officer. (M. C., sec. 1607.)

ARTICLE III.

OF PUBLIC PROPERTY IN THEIR CHARGE.

Sec. 1707. Return lists of property to be made.—On the first Mondays of April and October of each year the several elected and appointed officers, clerks, employes, and all persons holding office in the corporation of the City of St. Louis, shall make a full and accurate return list of all property of whatever kind or nature in their said office, or that may come into their possession, during their term of office, or that comes to them in any way after they have become qualified and taken charge of their said office; and which return list shall embrace, in tabular form, the name, number, kind of article, for what purpose used, condition and full description and general remarks attached to each entry in order to render full satisfaction as regards the same. Said return list shall embrace a statement of all condemned, surplus or refuse property that may have been had or reported during the preceding year in the department or office and the disposition made thereof. (M. C., sec. 1608.)

Sec. 1708. Return list—how disposed of.—Said list when fully completed shall be returned to the office of the comptroller, whose duty it shall be, and said officer is hereby required, to provide a book of proper size, regularly printed, ruled, indexed, paged, numbered, indorsed as "public property, record number—and year," in which shall be entered and written in a legible hand the contents of each and every list so returned, giving the name of the officer and his official position, the date and year the return was made, and such other facts connected with the same as may be deemed necessary and of importance. (M. C., sec. 1609.)

Sec. 1709. Estimates for supplies—when to be made.—All officers requiring supplies shall, on or before the first of each month, make an estimate of what articles are required for use in their department for the coming month, and shall make but one requisition per month for any one article needed. (M. C., sec. 1610.)

Sec. 1710. Property unfit for service—disposition of.—Every officer before making requisition for any article needed, shall carefully examine all the articles he may have under his charge, and if the articles, such as tools, furniture, etc., are unfit for service, they shall be turned over to the comptroller on receipt of the new articles. (M. C., sec. 1611.)

Sec. 1711. Vehicles of city, how marked.—All vehicles belonging to the city shall have the word "city" painted on each side thereof in Roman letters, at least one and one-quarter inches long. In addition to the above the vehicles used by the police department shall have the letters "P. D.;" those used by the health department shall have the letters "H. D.;" and those used by the fire department shall have the letters "F. D." painted on each side thereof, and each department shall number their vehicles consecutively, beginning with number one. (M. C., sec. 1612.)

Sec. 1712. Duty of officers—having vehicles.—It shall be the duty of every city officer having vehicles under his charge to have said vehicles marked in accordance with the section next preceding. (M. C., sec. 1613.)

Sec. 1713. Same—penalty.—Any person using, or having in his possession, or under his control any vehicle belonging to the city, not marked as required by the next two foregoing sections of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars for each offense. (M. C., sec. 1614.)

ARTICLE IV.

OF PRIVATE WATCHMEN.

Sec. 1714. Private watchmen, etc.—conditions of employment.—The police commissioners of the City of St. Louis shall have power to regulate and license all private watchmen, private detectives and private policemen, and no person shall act as private watchman, private detective or private policemen in this city without the written license of the president or acting president of the police board; provided, however, that no charge shall be made for the issue of such license or permit; provided, further, that in case of the disability of a licensed watchman, a substitute may be employed without license, for a term not exceeding one week. Every violation of this section shall be a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars for each offense. (M. C., sec. 1615.)

CHAPTER 21.

PENAL AND CHARITABLE INSTITUTIONS, DEPARTMENT OF.

- ART. I. Of the commissioners.
 II. Of foundlings.
 III. Of the jailer.
 IV. Of the workhouse.
 V. Of St. Louis Industrial School.

ARTICLE I.

OF THE COMMISSIONERS.*

Sec. 1715. **Appointment of.**—The appointment of five commissioners on charitable institutions provided for in section two of article four of the charter shall be made in such a manner that as far as practicable there shall not be a majority belonging to any one religious sect or political party. (M. C., sec. 1616.)

Sec. 1716. **Rooms for use of.**—The mayor shall assign a suitable room in the city hall for the use of the commissioners, in which they shall meet at least once in each month. (M. C., sec. 1617.)

Sec. 1717. **President—rules.**—The commissioners shall elect from their number a president, who shall hold his office during the time for which the commissioners are appointed, or until his successor is elected, and qualified. They may make such rules and regulations for the transaction of their business as they may deem expedient not inconsistent with the charter and ordinances. (M. C., sec. 1618.)

Sec. 1718. **Secretary.**—The assistant secretary of the council shall act as secretary of the commissioners, and shall perform all clerical duties necessary for the transaction of their business. (M. C., sec. 1619.)

Sec. 1719. **General powers and duties—interference with—misdemeanor.**—The commissioners on charitable institutions shall have a general visitatorial supervision over all penal and charitable institutions supported wholly or in part by the city, and shall have full authority at all times to inspect and examine the conditions of such institutions, financially and otherwise; to inquire and examine into their methods of instruction, and the government, treatment and management of their inmates; the official conduct of managers, superintendents, and all other officers and employes of the same; the receipts and expenditures of money; the condition of the buildings, grounds, and the other property connected therewith, and into all other matters pertaining to their usefulness and good management; and for these purposes they shall have free access to the grounds, buildings, and all books and papers relating to said institutions, and all persons now or hereafter in any manner connected with the same are hereby directed and required to give such information and afford such facilities for inspection as the said commissioners may require, and any neglect or refusal on the

*For Charter provisions relating to commissioners of charitable institutions see: as to appointment and term: Charter, Art. IV, sec. 2; excepted from prohibition that officers cannot hold more than one office: *ib.*, Art. IV, sec. 10; and from provision that officers must devote whole time to duties: Art. IV, sec. 11; duties and powers, and right to remove appointees: Art. IV, sec. 49, and see note thereto; to visit institutions monthly, recommend ordinances, receive no compensation, etc.: Art. IV, sec. 50.

part of any officer or person connected with such institution to comply with the requirements of this section shall be deemed a misdemeanor, and upon conviction thereof, before either of the police justices of the City of St. Louis shall subject the offender to a penalty for each and every refusal of a sum equal to one-tenth of the amount annually paid such person as wages or salary. (M. C., sec. 1620.)

See Charter, Art. IV, secs. 49 and 50.

Sec. 1720. Hearing in case of removal.—When in the judgment of the commissioners, it becomes necessary to exercise the power of removal conferred by section forty-nine of article four of the charter, before any removal shall be made, the person accused shall have a full, open and impartial hearing before the commissioners. (M. C., sec. 1621.)

This section was passed in furtherance of a clear and explicit delegation of power to that end. It is not inconsistent with the Charter, laws or constitution. Under it, and the general law there can be no removal by the commissioners of a superintendent of the poor house except for cause, nor without notice, charges and specifications and an opportunity to be heard: State ex rel. vs. Brown, 57 Mo. App. 199.

Sec. 1721. Duties of board—visits and report to assembly.—The said commissioners are hereby authorized and required, at least once in each month, and as much oftener as they may deem necessary, to visit all the charitable, penal, reformatory and correctional institutions supported wholly or in part by the city, and ascertain whether the moneys appropriated for their use are, or have been, judiciously and economically expended; whether the objects of the several institutions are being accomplished, and the inmates humanely and properly treated; whether the laws and ordinances in relation to them are fully complied with, and the various other matters referred to in section 1719. Such visitations shall be made at irregular intervals, and without previous notice or information to any of the officials or employes of the institutions visited. They shall report in writing through the mayor, to the municipal assembly at the opening of each annual session of the same, or oftener if they deem it necessary, the result of their investigations, together with such other information and recommendations as they may deem proper, and they shall recommend to the municipal assembly such ordinances as they may deem necessary for the welfare of the persons under their supervision and in the interests of the city. (M. C., sec. 1622.)

Chart., Art. IV, sec. 50.

Sec. 1722. Books and blanks to be furnished.—Until an appropriation is made for this purpose, the comptroller shall furnish to the said commissioners necessary account books, blanks and stationery. (M. C., sec. 1623.)

Sec. 1723. Commissioners to appear before committees.—The said commissioners, or any one of them, shall appear before any committee of either house of the municipal assembly that may require their attendance. (M. C., sec. 1624.)

Sec. 1724. Inquiries to be made, when appropriations desired.—Whenever any of the institutions under the supervision of the commissioners desire an appropriation for any purpose other than their usual expenses, they shall inquire carefully and fully into the ground of such want, the purpose or purposes for which it proposes to use the same, the amount which will be required to accomplish the desired project, and

into any other matters connected therewith, and shall report to the municipal assembly the result of such inquiries, together with their own opinions and conclusions relating to the whole subject. (M. C., sec. 1625.)

Sec. 1725. Commissioners not to be interested in contracts—who ineligible.—No one of said commissioners shall be directly or indirectly interested in any contract for building, repairing or furnishing any of the institutions under their supervision, nor shall any officer of such institutions be eligible to the office of commissioner herein created. No money shall be paid by any city officer, nor shall the city be in any manner liable on any contract made in violation of this section, or in which either of said commissioners shall, after the making thereof, become directly or indirectly interested, and any commissioner violating the provisions of this section shall thereby vacate his office. (M. C., sec. 1626.)

See Charter, Art. IV, sec. 10 and notes.

Sec. 1726. Failure to attend meetings, how treated.—The failure on the part of any commissioner appointed under this chapter to attend any three successive regular meetings during any calendar year, except in case of sickness or absence from the city, may be treated by the mayor as a resignation of such non-attending commissioner and the vacancy be filled. The annual reports of the commissioner shall give the names of each commissioner present at each of the regular meetings. (M. C., sec. 1627.)

Sec. 1727. Compensation not allowed.—The commissioners shall receive no compensation for their time or services, but the actual expenses of each while engaged in the performance of the duties of their office, and any actual outlay required in examinations or investigations on being made out and certified to by a majority of the commissioners at a regular meeting, if approved by the mayor, shall be paid out of a fund appropriated for that purpose. (M. C., sec. 1628.)

Charter IV, sec. 50.

ARTICLE II.

OF FOUNDLINGS.

Sec. 1728. Mayor may contract for care of foundlings.—[That] the mayor [be and he] is hereby authorized to contract with Bethesda, St. Anne's Widows' Home, Infant Asylum and Lying-in Hospital, and in case of colored children with St. Louis Colored Orphans' Home, at a rate not exceeding twelve dollars per month per head for those foundlings which may hereafter be admitted under permit of the mayor, such compensation to be in full for every charge of every nature for the clothing, lodging, care, medical attendance and maintenance of the child. (Ord. 18067, ord. 18084 and ord. 13525.)

Ord. 13525 makes provision for St. Anne's Widow's Home and Infant Asylum and Lying-in Hospital; ord. 18067 (which is the only one of these three referred to in Mun. Code, being sec. 1629 thereof) provides for Bethesda Home, and ord. 18084 for St. Louis Colored Orphans' Home (for colored foundlings). In as much as the provisions for terms, supervision, etc., as per next three sections, in each of these ordinances are identical, they are all included in the same sections.

Sec. 1729. Children three years or under only included—contracts may be abrogated.—Nothing herein contained shall ap-

ply to any child over the age of three years. And provided further that the contract may at any time be abrogated by an ordinance. (*Ib.*)

Sec. 1730. City given supervision of foundlings.—All foundlings admitted to said institution under the terms of this article and said contract shall be subject to the supervision and administration of the mayor, or of any officer of the city government by him designated for the purpose, and the mayor and commissioners on charitable institutions of the City of St. Louis shall have a general visitorial supervision over said institution during the existence of the contract herein specified, and this article shall be set forth in full in said contract. (*Ib.*)

Sec. 1731. Pay for foundlings ceases when child is three years old—legal appropriation required.—No money shall be payable under said contract for any foundling after the same shall have arrived at the age of three years; provided, that no contract shall be made or entered into by the mayor until the money necessary to pay for the maintenance and support of said foundlings shall be set apart and appropriated, as required by the charter of the city. (*Ib.*)

ARTICLE III.

OF JAILER.

Sec. 1732. Jailer—office of created—qualifications.—There is hereby established the office of jailer of the City of St. Louis. Said jailer to be appointed by the mayor and approved by the council, and to hold his office for four years, and until his successor is appointed and duly qualified. No person shall be appointed to the office of jailer who is not a citizen of the United States, and who has not been a resident of this city for at least two years previous to his appointment. (M. C., sec. 1633.)

Sec. 1733. Jailer—his superintendence and authority.—The jailer shall have under his control and superintendence, the jail, deputy jailer and guards, and shall, with the advice and consent of the mayor, prescribe all needful and proper rules and regulations for the government and management thereof, and the treatment of the persons therein confined, not inconsistent with the provisions of the general laws of the state or charter of the city concerning jails and jailers. (M. C., sec. 1634.)

Sec. 1734. Jailer—requisition of, for supplies.—The commissioner of supplies, shall, upon the requisition of the jailer, to be approved by the mayor and comptroller, supply all necessaries for the jail, either in the way of food, clothing, medicine, bedding, fuel, [or] lights, and all other necessaries for the care, confinement and treatment of prisoners, and the proper management and conduct of the jail. (M. C., sec. 1635.)

Sec. 1735. Jailer—quarters and hours of.—The mayor shall cause quarters to be assigned to the jailer in the building or square upon which the jail is located, and it shall be the duty of said jailer, or his deputy to be on hand during the day and night to enforce all rules and regulations in relation to the confinement of prisoners and all other needful measures that may be necessary to prevent any infringement of the rules. (M. C., sec. 1636.)

Sec. 1736. **Jailer—bond and compensation.**—The jailer shall give bond to the City of St. Louis in the sum of ten thousand dollars, with not less than three good and sufficient securities, who shall be owners of unincumbered real estate in the City of St. Louis, to be approved by the mayor and council, for the faithful performance of his duties; said bond shall be filed in the register's office. The jailer shall receive as compensation for his services the sum of fifteen hundred dollars per annum, payable monthly. (M. C., sec. 1637.)

Sec. 1737. **Deputy, guards and cooks—compensation—discharge.**—The jailer shall appoint, by and with the approval of the mayor, a deputy, who shall be the bookkeeper of the jail, and possess the same power as the jailer, and shall receive a salary at the rate of one thousand dollars per annum, payable monthly. The jailer shall also appoint by and with the approval of the mayor one clerk, who shall receive a salary at the rate of six hundred dollars per annum, payable monthly. The jailer shall also appoint, by and with the approval of the mayor, the following guards, whose compensation shall be as follows, viz.: twenty-four guards, three of whom shall be women, so that the women in the jail shall be all the twenty-four hours continuously under the care of a woman guard. Said guards shall be paid at the rate of seven hundred and twenty dollars each per annum, and also one chief cook, one first assistant cook, two second assistant cooks whose compensation shall be as follows: chief cook at the rate of six hundred dollars per annum; one first assistant cook, at the rate of four hundred and eighty dollars per annum; two second assistant cooks, who shall each receive a salary at the rate of three hundred and sixty dollars per annum, all of which shall be paid monthly upon payrolls certified to the auditor by the jailer. Any of the appointees under this section may be discharged at the pleasure of the jailer, with the approval of the mayor. (M. C., sec. 1638.)

Sec. 1738. **Bonds to be given.**—The deputy jailer shall give bond to the City of St. Louis in the sum of five thousand dollars, and the guards shall each give bond to said city in the sum of two thousand dollars, with two or more securities, who shall be the owners of unincumbered real estate in the City of St. Louis, to be approved by the mayor and council, for the faithful performance of their duties. (M. C., sec. 1639.)

Sec. 1739. **Jailer—duties of.**—The jailer appointed under this chapter shall do and perform all the acts and duties heretofore discharged by the jailer of St. Louis County. He shall be responsible for the management of the jail, the care and custody of all prisoners and property, and any collections of money made by him shall be deposited in the city treasury, taking triplicate receipts therefor, one of which shall be filed with the auditor and one with the comptroller. (M. C., sec. 1640.)

Sec. 1740. **Jail—location of.**—The building erected by the late County Court of St. Louis County, on Clark avenue, Eleventh, Twelfth and Spruce street, and known and designated as the Four Courts, is the building wherein shall be established and located the jail of the City of St. Louis. (M. C., sec. 1641.)

Sec. 1741. **Children how confined.**—Hereafter all children under the age of fifteen years confined in the jail and in the calaboose shall be kept separate and apart from the other inmates of said institution. (M. C., sec. 1642.)

ARTICLE IV.

OF THE WORKHOUSE.*

Sec. 1742. Location of workhouse.—The houses, inclosures and fixtures erected on that portion of the northeast quarter of block number eighty-five in the city commons which lies between Jefferson avenue and the macadamized Carondelet road [now corner Broadway and Meramec streets] be, and they are hereby declared to be the workhouse of the City of St. Louis, and shall be so known and designated. (M. C., sec. 1643.)

Sec. 1743. Duties of superintendent enumerated.—The superintendent of the workhouse shall have the control and management of said workhouse, and it shall be his duty: First—To see that all laws and ordinances relating to said workhouse are fully and faithfully enforced. Second—To exercise a general supervision over the officers and employes connected with the workhouse and the management thereof. Third—To prescribe the kind of labor at which and the place where all the prisoners in the workhouse shall be employed. Fourth—To establish such rules and regulations generally for the government and management of the workhouse as he may deem proper, not contrary to or inconsistent with the provisions of this chapter, and to cause the same to be printed and posted in each and every department of the workhouse. Fifth—To reside in the tenement erected for his residence within the workhouse inclosure, and to have the care and custody of the workhouse and the grounds, inclosures, fixtures, appurtenances and tools, and all property pertaining thereto, and of all persons pertaining thereto, and of all persons confined therein, and daily to visit all departments thereof and see if the same is properly cleaned and in good order. Sixth—To attend to the management of the prisoners and guards; to see personally that the prisoners are employed at the places and the work directed by the board of public improvements; to see personally that the guards do their duty; to attend to the safe-keeping of the prisoners; to see that the prisoners are properly lodged and fed, and to report to the mayor at the end of each month the amount and description of work done by the prisoners, the amount of the stock on hand produced by their labor, the amount produced during the month and the amount sold during the month; the condition of the property of the city connected with the workhouse and such other facts as may be required. Seventh—To deliver to his successor in office all prisoners confined in the workhouse and all property of the city connected therewith. (M. C., sec. 1644.)

*See Charter, Art. I, sec. 1; Art. III, sec. 26, clause third; but special authority is found in Art. III, sec. 26, clause tenth; see also authorities and discussion in note to R. C., sec. 1265, treating of police courts, punishments and penalties, provisions applicable to workhouse, etc., to which may be added *Ulrich vs. St. Louis*, 112 Mo. 138, 144: "The city defendant in conducting its workhouse cannot be regarded as doing so as a means of profit or private municipal gain or revenue. It is obvious beyond question that the workhouse in this case was erected and conducted for the public good, and imprisonment therein was only the legitimate exercise of suitable police regulations such as the city undoubtedly had the power to enact." Hence it was held that the city was not liable for alleged negligence of the superintendent.

Persons under certain age may be sent to the House of Refuge (now called St. Louis Industrial School) instead of the workhouse; see references in note to next article of this chapter.

By the Charter, Art. VI, sec. 1 (paragraph on "Construction—Culverts—Partial Grading," etc) there is a proviso that such work may be done by the city "by the labor of prisoners at the workhouse."

Sec. 1744. Record of prisoners to be kept.—The superintendent shall also receive all persons committed to the workhouse by the marshal and register in a book, to be kept for that purpose, the name, age, height, color, place of birth of each prisoner received, and such other facts as may be necessary, and the number of times said prisoner has been committed. (M. C., sec. 1645.)

Sec. 1745. Account of days worked and prisoners.—He shall also keep an accurate account of days worked by each prisoner, and also keep a daily account of the number of prisoners on hand and the work at which they have been employed. (M. C., sec. 1646.)

Sec. 1746. Termination of confinement to be noted.—The superintendent shall note when the time of any prisoner is out, or he is otherwise legally entitled to his discharge, upon his books. (M. C., sec. 1647.)

Sec. 1747. Books to be kept by superintendent.—The superintendent shall have prepared and kept in his office a set of books, in which shall be entered all receipts and expenditures on account of the workhouse, and all clothing, tools, provisions and other articles procured for the same, and he shall report to the comptroller, at the end of each month, a detailed statement of all such receipts and expenditures. (M. C., sec. 1648.)

Sec. 1748. Monthly requisitions for supplies to be made.—It shall further be the duty of the superintendent of the workhouse to prepare and submit at the end of each month to the commissioner of supplies a full and detailed requisition of the necessary supplies for the workhouse, such as provisions, clothing, tools, provender for horses, and such other articles as may be required for the use of said institution for the next ensuing month. (M. C., sec. 1649.)

Sec. 1749. Supervision of food and apartments—other duties.—The superintendent shall also supervise the cooking and providing of meals for the prisoners, and see that they have sufficiently good and wholesome food, and that their sleeping apartments are properly cleaned and ventilated, and to attend to all other duties that may be required of him by the board of public improvements. (M. C., sec. 1650.)

See post R. C., sec. 1766.

Sec. 1750. Food to be provided for guards and employes.—The superintendent shall provide suitable food for the guards and employes of said workhouse, and the requisitions for said food shall be made in the same manner as prescribed in section 1748, but separate accounts shall be kept by the commissioner of supplies and superintendent of workhouse of the supplies furnished under this section, but no compensation therefor shall be allowed the said superintendent or other officer of said institution other than their lawful salaries. (M. C., sec. 1651.)

Sec. 1751. Record to be made in cases of commitment.—Whenever the marshal shall commit any person to the workhouse, he shall indorse upon the execution the amount of money or other property that he may have in his hands, belonging to such prisoner, and shall deliver to the superintendent a copy of the execution under which the com-

mitment takes place, and the indorsement thereon, and the superintendent shall indorse a receipt for the prisoner on the execution held by the marshal. The superintendent shall then enter in a book the executions and indorsements thereon, and the number of days' labor which the prisoner must give to discharge the execution and costs, with the costs of boarding added, at the rate of thirty cents per day. (M. C., sec. 1652.)

Sec. 1752. Disposition of effects of prisoners.—Upon receipt of any prisoner the superintendent shall divest him of all articles of value, and all unnecessary wearing apparel, and all such articles shall be registered in a book and returned to the owner upon his being discharged. (M. C., sec. 1653.)

Sec. 1753. Employment of prisoners.—The superintendent shall keep all prisoners committed to the workhouse employed at such useful and profitable labor as their health and strength will permit, ten hours each day; but no prisoner shall be required to work before sunrise or after sunset, except in extraordinary cases, and then he shall be allowed extra pay at the rate of fifteen cents per hour. (M. C., sec. 1654.)

See Charter, clause 10 of sec. 26 of Art. III. The city has no authority under the charter to let the prisoners by contract to a private party to be worked by him for a consideration to be paid the city; but neither is such action expressly prohibited; hence if such contract be in fact made the city can recover for work done by the prisoners, and the contractor is estopped, after deriving benefits under his contract, from setting up its invalidity: *St. Louis vs. Davidson*, 102 Mo. 149.

By Charter, Art. VI, sec. 1, end of paragraph on Construction, Culverts, Partial Grading, it is provided that the city may do such work "by the labor of prisoners at the workhouse."

Sec. 1754. Superintendent—receipt to be taken by for bills.—Whenever the superintendent shall deliver any bill to the collector for collection, for work done by the prisoners or material sold from the workhouse, he shall take triplicate receipts from the collector, one of which he shall file in the office of the comptroller, one in the office of the auditor, and one shall be filed in the office at the workhouse; said receipts shall specify the name of the party indebted to the city, the amount due, the character of the work done or materials furnished, and the date of contract. (M. C., sec. 1657.)

Sec. 1755. Daily accounts of prisoners and work—bills—accounts of superintendent—auditing.—The superintendent shall cause to be kept in proper books, a daily account of the number of prisoners on hand, and the work at which they have been employed. All bills against said workhouse shall be signed by the superintendent; and his accounts so certified shall be audited by the auditor, in the same way other accounts are audited, and he shall draw his warrant on the treasurer for such amounts, payable out of the appropriation for the workhouse. (M. C., sec. 1658.)

Sec. 1756. Treatment of disorderly prisoners.—Any person who shall refuse to work, or who shall behave in a riotous or disorderly manner, or shall resist or attempt to escape from the workhouse, may be committed to close and solitary confinement, and may be fed on bread and water until he consents to perform his duty; and may, if necessary, be put in irons; but the mayor shall have power to control the superintendent in the extent and manner of punishment. (M. C., sec. 1659.)

"That the city may make reasonable rules of discipline for the government of

the inmates of the workhouse is beyond question. *Ulrich vs. St. Louis*, 112 Mo. 138. A rule of discipline requiring the prisoners in that institution to labor, is a reasonable rule both for discipline and for sanitary reasons": *Bland, P. J. in St. Louis vs. Karr*, 85 Mo. App. 613.

Sec. 1757. Notice to be given of escapes.—Whenever any prisoner shall escape from the workhouse the superintendent shall immediately notify the mayor and the chief of police thereof and shall furnish the latter with a description of the fugitive, and a statement of the manner of escape, and if he fails so to do within twenty-four hours after such escape, he shall be liable for the amount of fines and costs due from such prisoner. (M. C., sec. 1660.)

Sec. 1758. Penalty for escapes.—Any prisoner escaping from the workhouse shall forfeit the time he may have labored therein; and, upon being retaken, shall work out the whole amount for which he was originally committed, and the cost of boarding for the whole time. (M. C., sec. 1661.)

The validity of this section in thus lengthening the original term without a trial and conviction is by no means clear.

Sec. 1759. Prisoners—forfeitures and credits.—Any prisoner who may be placed in solitary confinement, or may refuse to perform his task, shall not be allowed a credit for the time of such confinement or refusal; and the cost of his boarding during the time of such confinement or refusal shall be added to the amount for which he was committed; and worked out by him. If any prisoner shall be sick and unable to work, he shall be allowed his time as though he had worked, but the amount of his board shall be charged to him. If the weather should be so inclement that the prisoners cannot work, those who cannot be kept at work for that reason shall, nevertheless, be allowed a credit as though they had worked, but their board for such time shall be charged to them. (M. C., sec. 1662.)

This section in effect confers upon the superintendent of the workhouse the power, under the guise of enforcing a rule of discipline, to judicially convict, sentence and confine a prisoner in that institution beyond the maximum period of six months, prescribed by the Charter (Art. III, sec. 26, clause 10); and so much thereof as authorizes the superintendent to not allow credit for any days of service in the workhouse against the time of imprisonment for which the offender was convicted, violates the Charter, and section 30 of the Bill of Rights, in that it authorizes deprivation of liberty without due process of law, and is for that reason void: *St. Louis vs. Karr*, 85 Mo. App. 608, 614.

Sec. 1760. Rules of confinement of prisoners.—Prisoners shall be confined within the appropriate apartments within one hour after sunset, and all lights in such apartments shall be extinguished by nine o'clock p. m., between the first of April and the first of October, and by eight o'clock p. m., during the remainder of the year, and no lights shall be allowed in the sleeping apartments of any prisoner, except in case of sickness, and then only under the direction of the physician in attendance. (M. C., sec. 1663.)

Sec. 1761. Prisoner may obtain discharge, when.—Any prisoner may at any time pay the superintendent the amount of execution and costs, or balance due thereon, after deducting such credits as he or she may be entitled to; and, upon such payment, or upon any prisoner working out their fine and costs, or if he or she should be otherwise legally entitled to their discharge, the superintendent shall give the prisoner a printed or written discharge and set the same at liberty. The prisoners shall each

be allowed fifty cents per day for their work, exclusive of board. (M. C., sec. 1664.)

Chart., III, sec. 26, clause 10. See note above that term cannot be lengthened. And in the case of *In re Larkowski*, 94 Mo. App. 623, it is held that a prisoner sentenced from the Court of Criminal Correction for misdemeanor, is entitled to work out his fine at one dollar per day, and that a provision crediting him only fifty cents per day is void as in conflict with State statutes.

Sec. 1762. Restriction of intercourse with prisoners.—No person, except the mayor, members of the municipal assembly and officers of the workhouse, shall hold any intercourse with any prisoner, unless permitted by the superintendent or mayor. (M. C., sec. 1665.)

Sec. 1763. What prisoners to occupy separate apartments.—The superintendent shall not permit male and female, or white and colored persons, to occupy the same apartments. (M. C., sec. 1666.)

Sec. 1764. Treatment of sick prisoners.—Whenever any prisoner is sick the superintendent shall notify the superintendent of the city hospital of the fact, who shall thereupon detail one of the assistant physicians to visit the sick prisoner, and furnish the prisoner with proper medicines and medical attendance, and the superintendent shall see that the prisoner is properly nursed and attended, and the cost of all medicines, nursing, and attendance shall be allowed as other expenses of the workhouse. (M. C., sec. 1667.)

Sec. 1765. Physician for workhouse.—The superintendent is hereby authorized to employ a physician subject to the approval of the mayor, for the compensation of fifty dollars per month, to render all the medical treatment necessary to the inmates of the workhouse and to attend said institution every day for said purpose. Said employment shall be from month to month and may be terminated at the end of any month without previous notice. The expense created by the above employment shall be allowed as other expenses of the workhouse, and during said employment it shall be unnecessary to detail a physician from the city hospital, as provided in section 1764. (M. C., sec. 1668.)

Sec. 1766. Same—duty respecting food of prisoners.—It shall be the duty of the physician employed under the authority of section 1765 to visit the eating rooms of the prisoners of the workhouse during meal time, at least once each week, or oftener if he shall deem it necessary, and he shall make a careful examination of the food furnished the prisoners, and if, in his opinion, the food of the prisoners be not sufficient or of the proper quality, he shall make such recommendations for a change of diet as may be requisite for the health of the prisoners, and he may direct the superintendent to change the diet of the prisoners in accordance with this recommendation. The physician shall also forward to the mayor a copy of his order to the superintendent of the workhouse in relation to the diet of the prisoners, and he shall also report to the mayor any failure on the part of the superintendent of the workhouse in carrying out his instructions. (Ord. 21508.)

Prior to this amendment this duty was imposed upon the health commissioner. It was held that a failure to attend to the same warranted proceedings for his removal by the mayor: *State ex rel. vs. Walbridge*, 62 Mo. App. 162, 165; as to duty of superintendent respecting food see R. C., sec. 1749.

Sec. 1767. When prisoners removed to hospital.—Whenever the superintendent of the workhouse is of the opinion that any prisoner confined in the workhouse is sick or injured, and cannot receive proper treatment while so confined, he shall notify the health commissioner of the fact, who thereupon shall give the superintendent of the workhouse a receipt for said prisoner and have said prisoner removed to the city hospital for treatment, provided in his judgment it is proper so to do, and should such prisoner recover his health or recover from his injuries sufficiently to be able to work, he shall be recommitted to the workhouse and shall work out the remainder of his time. (M. C., sec. 1669.)

Sec. 1768. When guards, etc., may be discharged.—The superintendent may, on account of neglect of duty or upon other good cause, discharge any of the guards or other employes of the workhouse and appoint others in their stead, in the manner hereinafter provided for appointments by him. (M. C., sec. 1671.)

Sec. 1769. Intoxication or neglect of duty to cause discharge of guards.—Any guard who shall, while on duty, be in a state of intoxication or shall otherwise fail in the discharge of any of his duties, shall be discharged forthwith by the superintendent, and the facts in the case reported to the mayor. (M. C., sec. 1672.)

Sec. 1770. Employment of prisoners on public work—shortening term of imprisonment for good behavior.—The board of public improvements, by and with the approval of the mayor, may employ any of the prisoners on any public work, under such rules and regulations as they may prescribe; and to encourage good behavior on the part of the prisoners thus employed, the board of public improvements shall have the power, by and with the approval of the mayor, to offer and give such rewards as they may deem proper; provided, however, that such reward shall only be in the nature of a deduction of the time for which such prisoners may have been sentenced to the workhouse. And said prisoners may be employed in the above manner in grading any duly established street or alley in the city, at the instance and request of the board of public improvements, which is hereby vested with authority to cause any public street or alley to be graded in the manner aforesaid; provided, however, the approval of the mayor shall first be had and obtained. (M. C., sec. 1673.)

Sec. 1771. Prisoners—may be employed elsewhere than at workhouse.—The superintendent shall, upon the direction of the board of public improvements, work any portion of the prisoners not actually required at the workhouse, or on the work of the city, on any public or private work, and the amount of such work shall be collected in the manner hereinbefore provided, and paid into the city treasury, and placed to the credit of the workhouse fund. (M. C., sec. 1674.)

Sec. 1772. Superintendent to report to assembly.—The superintendent shall, at the opening of each stated session of the municipal assembly report to that body a detailed statement of the operations and affairs of the workhouse during the preceding year; setting forth the number of prisoners received; the number then at the institution; the age, sex and place of birth of all the prisoners; the value and description of the work performed by them in detail, and the expenditures and receipts on account of the workhouse. (M. C., sec. 1675.)

Sec. 1773. **Precautions against escapes — arrests.**—The superintendent shall have power to take all necessary measures to guard the workhouse, and to prevent the escape of the prisoners, and he or any city officer, or other person, is authorized to arrest, without warrant, any person who shall have escaped from the workhouse. (M. C., sec. 1676.)

Sec. 1774. **Trespassing on workhouse premises—helping escapes—penalty.**—The superintendent, or any officer of the workhouse, may arrest, without warrant, any person trespassing upon the workhouse premises, or attempting to rescue any prisoner, or assisting or attempting to assist any prisoner to escape, or hindering or attempting to hinder the superintendent or any officer of the workhouse in the lawful discharge of any of his duties, and any person so doing shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than five nor more than one hundred dollars. (M. C., sec. 1677.)

Sec. 1775. **Clothing of prisoners.**—Prisoners shall be furnished with suitable clothing, when necessary, at cost, provided, that they agree that the expense thereof shall be worked out by them in like manner as the amount of fine and costs for which they were committed. (M. C., sec. 1678.)

Sec. 1776. **Officers forbidden to deal in supplies.**—The superintendent, or any officer of the workhouse, shall not be permitted to trade in, or sell any articles of any kind to the city for the use of the workhouse. (M. C., sec. 1679.)

Sec. 1777. **Officers to be appointed.**—The superintendent shall, with the approval of the mayor, appoint the following officers, to-wit: An officer to be styled clerk, one foreman in the quarry, one foreman in the yard, two street grading foremen, and one macadam foreman, a blacksmith, and such guards and other employes as may be necessary. (M. C., sec. 1680.)

Sec. 1778. **Clerks and gate keeper—duties.**—The duties of clerk and gate keeper of the workhouse shall be performed under the direction of the superintendent, and he shall assist the superintendent in keeping the books, and no person shall be appointed that is not competent to the task. (M. C., sec. 1681.)

Sec. 1779. **Salary and bond of superintendent.**—The superintendent shall receive a salary of twelve hundred dollars a year, payable monthly, and he shall be furnished by the city, in addition thereto, with the necessary furniture for the tenement erected for his residence within the workhouse inclosure, and all the provisions, etc., necessary for the maintenance and support of himself and family; and shall before entering upon the duties of his office, give a good and sufficient bond in the sum of ten thousand dollars, with two or more securities, owners of unincumbered real estate in the City of St. Louis, conditioned as the bond of other city officers, and to be approved by the mayor and council. (M. C., sec. 1682.)

Sec. 1780. **Salaries and bond of employes.**—The salary of the clerk shall be nine hundred dollars per annum, and he shall give bond in the sum of two thousand five hundred dollars, conditioned as the bond of other city officers, to be approved by the mayor and council. The salary of

the foremen and blacksmith shall be each seven hundred and twenty dollars per annum, of the guards six hundred dollars per annum, hostler four hundred and eighty dollars per annum, and one cook at seven hundred and twenty dollars per annum. The salary of such other employes as may be found necessary shall be, excepting day laborers, three hundred sixty dollars per annum. (M. C., sec. 1683.)

Sec. 1781. Engineer and assistant.—There shall be appointed by the superintendent of the workhouse, with the approval of the mayor, an engineer and an assistant engineer, who shall be put in charge of the heating apparatus at the workhouse. They shall be regularly licensed engineers, and shall possess the qualifications prescribed in section ten, article four of the charter. Said engineer and assistant engineer shall be employed only during the season that such heating apparatus is required to be used. (M. C., sec. 1684.)

Sec. 1782. Salaries of engineer and assistant.—The compensation of the engineer shall be at the rate of sixty dollars per month, and that of the assistant engineer at the rate of fifty dollars per month, said salaries to be paid monthly, and they shall also receive their board and washing at the workhouse. (M. C., sec. 1685.)

Sec. 1783. Record to be kept of articles received and sent.—It shall be the duty of the superintendent to cause to be kept in a proper book a daily record of all articles received at said workhouse, and from whom received; also a daily record of every article sent from said workhouse, and the name of the person to whom said article was furnished. (M. C., sec. 1686.)

Sec. 1784. When prisoners to be used for loading.—It shall not be lawful to employ the prisoners confined in the workhouse in loading materials sold from the workhouse, except in such cases as may be specially provided for by contract. (M. C., sec. 1687.)

ARTICLE V.

OF THE ST. LOUIS INDUSTRIAL SCHOOL.*

Sec. 1785. Name of House of Refuge changed to St. Louis Industrial School.—The institution known as the St. Louis House of Refuge shall hereafter be known by the title "St. Louis Industrial School." (Ord. 22145, sec. 1.)

*This institution is the St. Louis House of Refuge, the name of which by ordinance 22145 approved Nov. 21, 1905, was changed to St. Louis Industrial School. The House of Refuge, its organization, functions and management, is governed by the provisions of Laws 1873 (now Rev. St. 1899, pages 2553-2556, secs. 1 to 13, set out under "Laws Specially Applicable to St. Louis," with notes thereto, Chap. 14, secs. 355-367.) See also for Charter authority, Chart., Art. I, sec. 1; for building, *ib.*, Art. III, sec. 26, clause 3; the mayor appoints superintendent subject to confirmation by council: Charter, Art. IV, secs. 2 and 9; also R. C. 1509; also four members as board of managers, of which he is *ex officio* a member: R. S. 1899, p. 2553, sec. 1; R. C., sec. 1510. As to imprisonment for crime in this institution see *In re Larkowski*, 94 Mo. App. 623; for the charitable and valuable functions of the institution see *State ex rel. vs. Walbridge*, 69 Mo. App. 1. c. 667; also *In re Larkowski*, *supra*. By Laws 1905, p. 301, the board of managers of the House of Refuge is authorized to arrange with the Public School Board for the education of the inmates of that institution. See notes and comments contained in notes to the statutes (above referred to) which are set out in Laws Specially Applicable to St. Louis, Chap. 14, secs. 355 to 367, pages 162-164.

Sec. 1786. Change of name not to affect law regulating same.—The change of name of said institution hereby ordained shall in no wise be construed to change, impair or otherwise affect existing provisions of law regulating to said institution, except so far as to change the name thereof. (*Ib.*, sec. 2.)

CHAPTER 22.

PLUMBING AND DRAINAGE DEPARTMENT.*

Sec. 1787. Board of public improvements given supervision of.—The board of public improvements is hereby charged with the supervision of plumbing and drainlaying, and of all matters pertaining thereto. (M. C., sec. 1688.)

Sec. 1788. Drainlayers and plumbers to be registered.—Said board is hereby authorized and directed to register, in a book kept for that purpose, the full name, residence and place of business of all persons, firms or corporations, who may desire to engage in the business or trade of [plumbing or†] drainlaying in the city, either as masters or workmen, and to issue to such parties as are found competent, certificates of authority to do [plumbing or†] drainlaying connected, or to be connected with the water supply or drainage system of the city; provided, such persons, firms or corporations shall have fully complied with the conditions prescribed in this chapter. (M. C., sec. 1689.)

†The words "plumbing or" indicated in brackets in the above section are eliminated therefrom by an amendment made by ordinance 23007, approved April 1, 1907, after the Revised Code. The amendment is made because by that ordinance the Plumbers' Board of Examiners is created which makes provision for the registration of plumbers, etc. (See ord. 23007 set out in appendix.)

Sec. 1789. Suspension or cancellation of certificate.—Said board shall have power, and is directed to suspend for a definite time, or to cancel, at the discretion of the board, any certificate of authority granted hereunder, if, after notice and opportunity to be heard, the party named therein is found guilty of violating the terms and conditions of this chapter, or the rules and regulations established by the board of public improvements, under the authority of the charter or ordinances of the city. (M. C., sec. 1690.)

Sec. 1790. Authority of board.—Said board is further authorized to establish rules and regulations for the government of plumbing and drainlaying, and of the persons doing such work, and to do all other acts necessary to carry out the provisions of this chapter. (M. C., sec. 1691.)

Sec. 1791. Supervisor of plumbing—subordinates.—The president of the board of public improvements, with the approval of the mayor,

*For regulations as to attachments with the water works pipes, etc., see R. C., secs. 2204 *et seq.*

Ordinance 23007, approved April 1, 1907, (after the Revised Code) creates the Board of Examiners of Plumbers, defines its duties and powers, regulates examinations and registration of plumbers, etc., and amends secs. 1689 and 1697 of the former Municipal Code, corresponding to sections 1788 and 1796 of this Revised Code. See that ordinance set out in full in Appendix to Rev. Code.

shall appoint a supervisor of plumbing and drainlaying, who shall be, by training and experience, competent to design and execute plumbing work. His official title shall be "Supervisor of Plumbing," and he, with the approval of the president of the board of public improvements, shall appoint one clerk, one bookkeeper, one messenger, and such number of inspectors as may be necessary to do the work required or authorized by this chapter. Said inspectors shall be skilled and experienced in the kind of work they are to inspect. (M. C., sec. 1692.)

Sec. 1792. Bonds and salaries.—The Supervisor of Plumbing so appointed, shall give a bond in the sum of ten thousand dollars and shall receive a salary of two thousand dollars per annum. The clerk shall give a bond in the sum of two thousand dollars and shall receive a salary of twelve hundred dollars per annum. The bookkeeper shall give a bond in the sum of fifteen hundred dollars, and shall receive a salary of one thousand dollars per annum. Inspectors shall give bonds in the sum of one thousand dollars, and shall receive the sum of one hundred twenty dollars each per month for their services and for the use of a horse vehicle, which shall be furnished and kept by them. The messenger shall receive sixty dollars per month. All bonds required to be given under this chapter shall be approved by the council and mayor, and all salaries shall be payable monthly. (M. C., sec. 1693.)

Sec. 1793. Supervisor—duties of—under whose control—inspection.—It shall be the duty of the Supervisor of Plumbing to receive and examine all plans of plumbing and drains submitted for approval. If he finds them in accordance with the ordinances, rules and regulations for the government of plumbing and drainlaying he shall indorse the original plan or plans as approved and issue a permit for the construction thereof, and shall file in convenient form for reference the duplicate plan or plans. If the plans submitted are not in accordance with ordinances, rules and regulations, he shall reject them, and, if requested, he shall state the grounds of rejection. Approval or rejection of plans shall be made within two days after the date of filing. He shall give general information and advice as to the meaning and requirements of the ordinances, rules and regulations to persons desiring the same. He shall investigate cases reported, or referred to him of bad or imperfect work or material, old or new, and report the same to the board of public improvements when called for, or to the board of health if the matter falls within the jurisdiction of the latter board. He shall report all cases of violation or attempted violation of the ordinances, rules or regulations on the part of plumbers, drainlayers, builders, owners or agents, and under the instructions of the board of public improvements, prosecute the offending party. He shall have charge of all employes appointed by him, and shall see that they perform their duties faithfully. He shall issue all notices and certificates of registration, and keep a record of all inspections made, and when the plumbing or drainlaying of any premises shall be satisfactorily completed, he shall issue to the party doing the work, a certificate that the same is lawfully and properly done. He shall supervise water and sewer connections and all excavations for the purpose of making or repairing the same, and in so acting he shall be the agent and representative of the street, water and sewer commissioners, and shall act under their instructions in matters pertaining to the several departments, in the manner and to the extent necessary to carry out this chapter and the provisions of the revised ordinances (Revised Code) of the city. He shall charge to the account of each plumber and drainlayer the fees for inspections herein authorized to be charged for and shall certify to the president of the board

of public improvements, to the comptroller and to the auditor, monthly, the amounts charged against each deposit made by plumbers, and drainlayers, so that such may be transferred to the proper fund. The supervisor of plumbing shall be under the control of the board of public improvements and said board shall have the power to remove him at its pleasure. Inspectors shall, under the direction of the supervisor of plumbing, inspect all buildings in course of erection, alteration or repair, as often as may be necessary, and shall see that all plumbing, drains and sewer work is done in accordance with the rules and regulations herein established or authorized, and that the work is done by persons authorized to do such work. They shall report all of their acts and such details as to imperfect or unlawful work, as the supervisor of plumbing may require. The supervisor of plumbing may, with the approval of the board of public improvements, divide the city into districts and assign an inspector to a single district. (M. C., sec. 1694.)

Sec. 1794. Registration of plumbers—bonds.—It shall be the duty of every person, firm or corporation desiring to engage in the business of plumbing or drainlaying in the City of St. Louis, to have his, her or their full name, residence and place of business registered in the book kept for that purpose by the supervisor of plumbing, and in case of removal or change in the firm to have such change made in the register without delay. It shall be the duty of every such party to give a bond in the sum of two thousand dollars as plumber, and in the sum of one thousand dollars as drainlayer, if the party desires to engage in both departments of business, otherwise only for the particular department engaged in. Said bonds shall be signed by two good and sufficient securities, holders of unincumbered real estate in the City of St. Louis, to be approved by the mayor, and shall be filed with the register, and shall be conditioned that they will faithfully observe all ordinances of the city pertaining to plumbing, drainlaying or excavations, and of all rules and regulations established under the authority of such ordinances; that all plumbing or drainlaying work done by them, or under their control, shall be executed in a workmanlike manner; that they will employ no workmen but such as have certificates of registration as herein required; that they will indemnify and save harmless the City of St. Louis from all accidents and damages caused by any negligence in protecting their work, or by any unfaithful or inadequate work done by themselves or their employes, and the bond shall be for the benefit of all persons injured or aggrieved by any violation or neglect to observe the ordinances of the city or the rules and regulations established under the authority of such ordinances. Said bonds shall be renewed at intervals of four years or oftener, if the security should be impaired, at the demand of the board of public improvements. (M. C., sec. 1695.)

Sec. 1795. Plumbers, etc.—registered—duties of.—It shall be the duty of every registered plumber or drainlayer to display at his place of business, in a conspicuous position, a sign with the full registered name, and the words "registered plumber (or drainlayer)" in letters not less than three inches in size. It shall be unlawful for any person, firm or corporation, not so registered, or whose certificate of registration has been suspended or canceled, to exhibit the sign herein described, or in any way to represent himself or itself to be registered and authorized to do plumbing or drainlaying. No person, firm or corporation not so registered, or whose certificate of registration has been suspended or canceled, shall be given a permit to make or repair any sewer, drain or connection therewith, or to do any work upon pipes or appurtenances connected with the waterworks of the city. Registered plumbers and drainlayers shall furnish, when re-

quired by the supervisor of plumbing, the full names of the workmen employed upon any job or piece of work at any time within one year of the completion and acceptance of such work. It shall be the duty of every registered plumber or drainlayer, before commencing the construction of new or the re-construction of old work, to file in the office of the supervisor of plumbing duplicate plans of all work proposed to be done, showing the whole course of the drains, soil, supply and waste pipes, the arrangements and connections of all fixtures, the position of all traps and of their ventilation, and such other details as the supervisor of plumbing may be authorized by the board of public improvements to require. Said plans may be returned for amendment until made satisfactory. Approval shall be attested by indorsement on the copy of the plans which shall be returned to the party filing the same, the duplicate copy being filed in the office of the supervisor of plumbing. The plans approved shall not be varied from, except an amended plan is first submitted and approved. (M. C., sec. 1696.)

Sec. 1796. Plumbers—journeyman—certificate to be obtained.

—It shall be the duty of every person employed, or working at the trade or vocation of [plumber*], drainlayer or sewer builder, to secure a certificate of registration as [practical plumber*], drainlayer or sewer builder, from the supervisor of plumbing, [and to show such certificate to any inspector of plumbing or policeman on demand.*] The certificate shall specify the kind of work the person to whom it is given is authorized to do. Said certificate shall be given without charge, for one year from the date thereof, to all persons who furnish satisfactory evidence of their skill and experience in the kind of work the applicant desires to do. Persons to whom a certificate is refused shall have the right to appeal to the board of public improvements, and in prosecuting such appeal, to present oral and documentary evidence of fitness. The board of public improvements may, after notice and opportunity to be heard, suspend any certificate for a definite period, or cancel the same, if the party is found guilty of violating the ordinances or rules and regulations duly established, or is shown to be negligent, unskillful or unfaithful in his work, or to be a person unfit or unworthy of being trusted or employed in the work of plumbing or drainlaying. Work done by any uncertified workman, or one whose certificate has expired, been suspended, or canceled, shall not be inspected and accepted. Inspectors and policemen are authorized to take up and return to the supervisor of plumbing, any certificate found in the possession of persons other than he to whom it was issued, and inspectors shall mark certificates as expired, suspended or canceled, when directed by the supervisor of plumbing so to do. (M. C., sec. 1697.)

*The section was amended in the ordinance creating the Plumbers' Board of Examiners, which affected those parts indicated in brackets in the above section. Said ordinance is No. 23007, approved April 1, 1907, (after the Revised Code). The amendment, so far as relating to section 1796 (which was sec. 1697 of the old Mun. Code) consisted in striking out the words "plumber" in line two, and "practical plumber" in line three, and by striking out the words "and to show such certificate to any inspector of plumbing or policeman on demand" and inserting in lieu thereof the words: "and it shall be the duty of every person employed or working at the trade or business of plumbing or drainlaying or sewer-building to show on demand his license or certificate to engage in such work to any inspector of plumbing or policeman." (See this ordinance No. 23007 set out in appendix.)

Sec. 1797. Deposit—of whom required—inspection.—It shall be the duty of every registered plumber and drainlayer to keep on deposit with the city treasurer, to the credit of "contract and other deposits," at all times a sum sufficient to pay the fees for inspecting the work done by such

plumber or drainlayer. For each inspection of such work the supervisor of plumbing shall charge the sum of one dollar against said deposit, and the supervisor of plumbing shall be the judge, subject to the board of public improvements, of the number of inspections to be made and charged for in any case. No permits for sewer or water connections shall be given to parties who have not made the deposit herein required, or who shall neglect to renew the deposit for five days after being notified so to do. It shall be the duty of every registered plumber and drainlayer to notify the supervisor of plumbing when work is ready for inspection, and no work shall be covered up or in any way concealed until it has been inspected and approved. Plumbers shall also notify the supervisor of plumbing of all extensions or alterations of fixtures and pipes made by them, so that the same may be inspected. (M. C., sec. 1698.)

Sec. 1798. Sewer and water connections, without permit, forbidden—conditions.—No house, building or premises shall be connected with water mains or sewers, or excavation made in streets or alleys therefor, without permits issued under the authority of the street, water and sewer commissioners. The conditions of such permits must be strictly complied with, as part of the rules and regulations governing plumbing and drainlaying. All work must be done by the plumber and drainlayer, in whose name the permits given under this chapter are issued. The provisions of this chapter shall apply to all sewers and water pipes, whether the same are on private property or in public streets or alleys. (M. C., sec. 1699.)

As to obtaining connections with the city water works pipes, see post R. C., Chap. 39, secs. 2504 to 2527; see also R. C., sec. 145.

Sec. 1799. Plumbing and drainlaying defined.—Drainlaying as herein regulated, is hereby defined to include the connection, with the public district or private sewers, and such pipes as may be laid beneath the surface, and more than five feet outside of the foundation walls of the building drained, if such building contains plumbing; or which may be intended solely to drain the foundations, cellars and roof water of buildings which do not contain plumbing. Plumbing is hereby defined to include the pipes, fixtures and all appurtenances thereto, which are used to conduct water to and distribute it in or about any premises or building for any use whatever; and all pipes and appurtenances used or to be used for conveying liquid water within and to a distance of five feet outside of the foundation walls of any building and all pipes and appurtenances used to ventilate the drains, fixtures and traps in any building; also all pipes and connections through which gases, vapors or wastes of any kind may be discharged into drains or sewers. (M. C., sec. 1700.)

Sec. 1800. Right of entry.—The supervisor of plumbing, or his duly authorized agents, shall have the right to enter upon any premises containing plumbing or drains, at all reasonable hours, to ascertain whether the provisions of this chapter have been or are being complied with. (M. C., sec. 1701.)

Sec. 1801. Penalty.—Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall pay a fine of not less than ten nor more than one hundred dollars for each offense. (M. C., sec. 1702.)

CHAPTER 22a.

PUBLIC BATHS AND PLAY-GROUNDS.*

Sec. 1802. **Sites for public bath houses.**—The board of public improvements is hereby authorized and directed to construct two or more free public bath houses on sites selected by said board of public improvements. (Ord. 21391, sec. 1, amending ord. 20820.)

See note to chapter heading in note at foot of this page.

Sec. 1803. **Public bath commission—authority—appointment of members—term—no compensation.**—The management, direction and care of all free public baths constructed and equipped by the City of St. Louis under the term of this chapter, shall be vested in a commission of five members who have been more than three years residents of the City of St. Louis, to be known as "The Public Baths Commission," to be appointed by the mayor to serve without compensation. The commission for the first year shall be appointed within thirty days after the approval of this ordinance and of the first commission appointed by the mayor, two members shall be appointed to serve until December thirty-first, nineteen hundred four, two until December thirty-first, nineteen hundred five, and one to serve until December thirty-first, nineteen hundred six, and on or before December thirty-first of the year nineteen hundred five, and of each year thereafter the mayor shall make appointment to fill vacancies as they occur, and commissioners so appointed shall serve for terms of three years each respectively. (*Ib.*, sec. 2.)

Sec. 1804. **Control and employment of attendants—powers of commission—regulations.**—The number of attendants, the conditions of their employment and the wages to be paid them, shall be deter-

*Ord. 21074 provides for one of the authorized free public bath houses, to be the South Market Free Public Bath, at the South Market; ord. 22378 provides for another on east side of Tenth street near and north of Carr street; ord. 22380 authorizes the construction by the B. P. I. of a free public swimming pool (on the property leased in ord. 21541, below referred to as the Mullanphy Play-Grounds), under the management of the Public Baths Commission; ord. 22924 directs the construction of an outdoor swimming pool at Eleventh and Mullanphy streets; ord. 21827 authorizes the Mayor and Comptroller to buy two lots for free public baths, one of which to be north of Franklin avenue and east of Jefferson avenue, the other south of Chouteau and east of Jefferson; ord. 21170 provides that the city furnish free water to the Civic Improvement League for free shower baths for the children upon its open-air public play-grounds; ord. 21541 authorizes the Mayor and Comptroller to lease the Mullanphy play-grounds at Tenth and Mullanphy streets and adjoining grounds, as free play-grounds, with baths, under the direction of the Public Baths Commission, etc., and to buy the equipment on said grounds; ord. 21108 authorizes lease of a certain lot to Civic Improvement League as an open-air play-ground for children in vicinity of lot; ord. 22379 provides for the purchase of the property used as the open-air play-ground. The Free Baths Commission and its powers were first created by ord. 20820, but this was amended by ordinance 31391 as herein set forth. Ord. 21103, providing for location of one of the baths, was repealed by ord. 21193. Ord. 21796 relates to the World's Fair Model Play Ground and Nursery, but the conditions were not performed. Ord. 22541 authorizes the Public Baths Commission, in conjunction with the Park Commissioner, to recommend sites for small parks, in pursuance of ord. 22366 (bond ordinances); ord. 22869, approved March 11, 1907 (too late for this Code), provides for the management, direction and care of all public playgrounds, public baths, and public recreation buildings, and provides for a commission for that purpose, to be known as the Public Recreation Commission. (See Appendix for this ordinance.) Ord. 23171, approved Aug. 19, 1907, after this Code, authorizes the Public Rec. Com. to furnish towels and soap for use at public bathhouses, fixing a fee therefor, designating the fund out of which the cost shall be paid, and makes it a misdemeanor for failure to return rented towels.

mined by the public baths commission, subject to the approval of the mayor. Said commission shall also determine and provide the equipment of the public baths, and the board of public improvements shall provide for the letting of all public work upon said public baths as provided under the Charter of the City of St. Louis. The public baths commission is hereby empowered to prescribe such rules and regulations as in its judgment are necessary for the successful operation of said public baths. (*Ib.*, sec. 3.)

See note to chapter heading, preceding page.

CHAPTER 23.

OF PUBLIC CARRIERS; AND THE LICENSING OF VEHICLES.*

- ART. 1. Of public porters.
 II. Of rates of license and regulations for vehicles.
 III. Of regulations and penalties.
 IV. Of stands for vehicles.
 V. Of steam cars and steam railroads.
 VI. Of street cars and street railways.

ARTICLE I.

OF PUBLIC PORTERS.

Sec. 1805. **Public porters to procure license.**—Any person designing to exercise the business of a public porter shall make proof to the mayor that he is a man of good moral character and sober habits, and, upon obtaining the certificate of the mayor that such proof has been made to him, shall pay to the license collector the sum of two dollars, and execute to the city a bond, with sufficient security, to be approved by the license collector, in the sum of two hundred dollars, conditioned for the faithful performance of his duties, and the delivery of all property and things intrusted to him to be transported, and the payment of all damages which may accrue to any person by his negligence in the discharge of his duties or his failure or refusal to perform them; and the license collector shall deliver to him a license to act as a public porter for one year, and designate the number which he shall use in his said business. (M. C., sec. 1703.)

Sec. 1806. **Badge, to be worn.**—Every licensed public porter shall wear a badge, in a conspicuous place about his person, on which shall be printed his name and number. (M. C., sec. 1704)

Sec. 1807. **Rates of fare.**—Every licensed public porter shall be entitled to receive for conveying a load on a wheelbarrow, handbarrow or hand cart, any distance not exceeding six blocks, twenty cents; any distance more than six blocks at the rate of twenty cents for six blocks. (M. C., sec. 1705.)

*For the general subject of licensing various occupations, and the subjects and objects of license and license taxes, see Chap. 31 of this Code, Article 1 to 20.

Sec. 1808. Penalty for violation of duty.—Any public porter who shall neglect or refuse, when required, to transport any article, unless such porter shall be at the time actually otherwise employed, or who shall fail to wear the badge provided for in this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than one nor more than twenty dollars. (M. C., sec. 1706.)

Sec. 1809. Barrow, cart, or badge—not to be used by others.—Any public porter who shall suffer or permit any other person than himself to carry any article in his wheel or handbarrow or handcart, or to wear his badge, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than one nor more than twenty dollars. (M. C., sec. 1707.)

ARTICLE II.

FOR RATES OF LICENSE AND REGULATION FOR VEHICLES.*

Sec. 1810. License taxes on public and private vehicles—regulations—tires.—There shall be annually levied and collected a license tax upon all kinds of vehicles, including bicycles, tricycles and velocipedes, used in the streets or public ways of the city for trade, traffic, pleasure or any other purpose, public or private, except vehicles for pleasure, owned and used by non-residents of the city, and bicycles, tricycles and velocipedes owned and used solely by children under twelve years of age, the following sums, to-wit: On each wagon or truck used for hauling boilers, engines, cable ropes, safes or stone, and drawn by eight or more horses, thirty dollars; on each wagon drawn by six horses, twenty dollars; on each wagon drawn by four horses, fifteen dollars; on each omnibus drawn by four horses, ten dollars; on each drag, tally-ho coach or lighted vehicle drawn by four horses, ten dollars; on each stage coach drawn by four horses, ten dollars; on each wagon drawn by three horses, seven dollars; on each omnibus drawn by two horses, five dollars; on each wagon drawn by two horses, five dollars; on each wagon or cart drawn by one horse, two dollars; on each hack or hackney carriage drawn by two horses, five dollars; on each barouche, drag, coach, coupe, rockaway, surrey, wagon, landau, or other like vehicle drawn by two horses, three dollars; on each cab drawn by one horse, two dollars and fifty cents; on each barouche drawn by one horse, two dollars and fifty cents; on each four-passenger surrey drawn by one horse, two dollars; on each four-passenger park wagon drawn by one horse, two dollars; on each buggy, one dollar and fifty cents; on each driving cart or sulky, one dollar and fifty cents; on each bicycle, tricycle or velocipede, one dollar; on each vehicle not specifically mentioned, one dollar and fifty cents.

*For right to impose vehicle tax and regulate width of tires, etc., regulate fares for carriage, etc., see Charter, Art. III, sec. 26, clause 5, and notes thereto. The validity of license taxes under the Charter on vehicles, public and private, for use of the streets, was upheld in (amongst other cases) *St. Louis vs. Green*, 7 Mo. App. 468 (affirmed on this point in s. c. 70 Mo. 562), with a full discussion of the powers of the city under the charter. See also *St. Louis vs. Weitzel*, 130 Mo. 600, holding likewise, the court saying, on p. 619: "Under its charter powers the city may levy these taxes: *First*, a tax on property. *Second*, a vehicle tax for use of the streets. *Third*, a tax on the business," all at the same time. But under charter authority to license, tax and regulate certain vehicles which are all of a class doing public business, "and other vehicles," will not authorize a license tax on private vehicles: *St. Louis vs. Grone*, 46 Mo. 574; *Hannibal vs. Price*, 29 Mo. App. 280.

But no license tax can be required of non-residents: *St. Charles vs. Nolle*, 51 Mo. 122. (See sec. 1813 of Rev. Code.)

A sprinkling cart is a "public vehicle" when used to sprinkle the streets for pay, and subject to the tax: *St. Louis vs. Woodruff*, 71 Mo. 92.

Provided, that from and after the first day of January, eighteen hundred and ninety-nine, no vehicle of any kind or description shall be used on the streets of this city for any purpose whatever, unless all the wheels of such vehicles shall be constructed with a width of tire corresponding to the size of axle on the following scale, to wit:

IRON OR STEEL AXLES.

Vehicles having axles of iron or steel, the wheel shall have width of tires as follows, to wit: If the axle is of a width or thickness or diameter of one and one-fourth inches, the tires must be at least one and one-fourth inches wide; if the axle is of a width or thickness or diameter of one and three-eighths inches, the tire must be at least one and one-half inches wide; if the axle is of a width or thickness or diameter of one and one-half inches, the tire must be at least one and three-fourths inches wide; if the axle is of a width or thickness or diameter of one and five-eighths inches, the tire must be at least two inches wide; if the axle is of width or thickness or diameter of one and three-fourths inches, the tire must be at least two and one-fourth inches wide; if the axle is of a width or thickness or diameter of one and seven-eighths inches the tire must at least be two and one-half inches wide; if the axle is of a width or thickness or diameter of two inches, the tire must be at least two and three-fourths inches wide; if the axle is of a width or thickness or diameter of two and one-eighth inches, the tire must be at least three inches wide; if the axle is of a width or thickness or diameter of two and one-fourth inches, the tires must be at least three and one-half inches wide; if the axle is of a width or thickness or diameter of two and one-half inches, the tires must be at least four inches wide; if the axle is of a width or thickness or diameter of two and three-fourths inches, the tires must be at least four and one-half inches wide; if the axle is of a width or thickness or diameter of three inches, the tires must be at least five inches wide; if the axle is of a width or thickness or diameter of three and one-half inches, the tires must be at least five and one-half inches wide; if the axle is of a width or thickness or diameter of four inches, the tires must be at least six inches wide.

WOODEN AXLES.

Vehicles having axles of wood shall have widths of tires as follows, to wit: If the axle is of a width or thickness of three and one-half inches, the tires must be at least two and one-half inches wide; if the axle is of a width or thickness of three and three-fourths inches, the tire must be at least two and three-fourths inches wide; if the axle is of a width or thickness of four and one-quarter inches, the tires must be at least three and one-half inches wide; if the axle is of a width or thickness of four and one-half inches, the tires must be at least four and one-half inches wide; if the axle is of a width or thickness of five inches, the tire must be at least five inches wide; if the axle is of a width or thickness of five and one-half inches, the tires must be at least five and one-half inches wide; if the axle is of a width or thickness of six inches, the tires must be at least six inches wide.

MISCELLANEOUS.

Trucks used for hauling boilers or engines, safes or dimension stones, shall have tires at least six inches wide, and those used for hauling cable rope shall have tires at least eight inches wide, and such trucks shall be constructed with axles of such lengths that the hind wheels shall be placed at least eight inches further apart than the front wheels thereof. Drays shall have tires at least four inches wide. All carts used for sprinkling, of the streets, public ways or park ways, shall have tires at least six inches wide. If any axle, iron, steel or wooden, is of a width or thickness or di-

iameter exceeding one and one-fourth inches and shall be of a different thickness, width or diameter than those described in this ordinance (article), then the tires of such vehicles using such axle shall be in conformity with the next larger axle in diameter.

EXCEPTIONS.

Provided, further, however, that any vehicle having rubber tires on all its wheels shall not be required to conform to the above rule as to width of tires.

EXEMPTIONS.

Any vehicle which shall, prior to the first day of January, eighteen hundred and ninety-nine, be made to conform in respect to its tires to the requirements and provisions hereof, shall from the date when the use of such tires begin, and so long as such use continues until said first day of January, eighteen hundred and ninety-nine, be exempt from payment of the license tax prescribed by this section, but from and after said date all vehicles shall be subject to the provisions of this section, and it shall be unlawful to use on the streets or public ways of the city after said first day of January, eighteen hundred and ninety-nine, any vehicle unless the tires of such vehicle conform to the requirements hereof.

SWORN STATEMENT REQUIRED.

From and after the taking effect hereof, no license shall be issued for any vehicle except on the sworn statement of the applicant showing the width or thickness or diameter of the axle and the width of the tires of the vehicle for which such license is to be used, and after said first day of January, eighteen hundred and ninety-nine, such sworn statement shall show a compliance with the provisions of this section.

DOUBLE TAX—PENALTY.

The annual license tax herein provided shall be doubled on the first day of April of each year for every license not issued and paid for before said day, and any person or persons, partnership or corporation, who shall after the first day of June of each year, drive or use, or permit or cause to be driven or used, on any of the streets or public places of the City of St. Louis, any unlicensed vehicle, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall in addition to all other penalties and requirements, be fined as in this section hereinafter provided for the violation hereof.

PENALTY.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than two hundred dollars, and each day's violation hereof shall be and constitute a separate offense.

VEHICLE INSPECTORS—SALARIES—DUTY.

Immediately after the passage of this ordinance there shall be appointed by the license commissioner [now license collector] four deputies, to be known as inspectors of vehicles who shall each be paid a salary of nine hundred dollars a year. It shall be the duty of said inspectors to ascertain whether the ordinances of the city relating to vehicles and to license taxes on vehicles are observed, and to report any violation of the same, and generally to aid the license commissioner [now license collector] in the collec-

tion of the vehicle license and in the enforcement of the ordinances relating to vehicles, and under the direction of the license commissioner [now license collector] to report to the city attorney all cases of violation of said ordinances, and to aid him in the prosecution of the violation of said ordinances, and perform such other duties as the license commissioner [now license collector] may direct.

LICENSE PLATE.

The license plate for bicycles, tricycles and velocipedes shall be of the size and form prescribed by the register, and shall be attached to the front part of the steering head at a point above the front fork. (M. C., sec. 1708.)

See note to heading of this article, *supra*. The city may require a license plate to be attached to a vehicle for use in a particular occupation, notwithstanding such vehicle already has a license plate for street use attached, and the reasonable expense may be charged: *St. Louis vs. Weitzel*, 130 Mo. 600.

Sec. 1811. License tax on automobiles and other horseless vehicles.—There shall be annually levied and collected on all kinds of automobiles and locomobiles and on all horseless vehicles propelled or moved by the use of electricity, gasoline, steam or other artificial power, by whatever name said vehicles may be known, and whether used for purposes of business or pleasure, a license tax of ten dollars on each such vehicle. (Ord. 20530.)

But see next section. Under the state law of 1903 (Acts 1903, p. 162), the owner of an automobile was required to take out a license in each county over whose roads he runs the same: *State vs. Cobb*, 113 Mo. App. 156. But under the new act of 1907, the city is authorized to require a license of such owners of automobiles as reside therein, and (on complying with the state law) no other licenses can be required anywhere in the state: Acts 1907, p. 78, sec. 19.

Sec. 1812. License tax on motor cycles, bicycles, etc.—There shall be annually levied and collected on all kinds of motor cycles, motor-bicycles, by whatever name said vehicles may be known, and whether used for purposes of business or pleasure, a license tax of two dollars on each such motor cycle. (Ord. 22161.)

Sec. 1813. Vehicles exempt.—The provisions of the foregoing sections of this article shall not be so construed as to embrace private buggies, barouches and carriages belonging to persons living outside the city and used for private purposes only. (M. C., sec. 1709.)

Sec. 1810, *supra*, was the section immediately preceding this one in the Mun. Code, there numbered sec. 1708. And section [R. C. 1813] was section 1709 in the Mun. Code immediately following, and read so as to exempt only "the foregoing section" so as to strictly refer only to what is now 1810. But the Municipal Assembly passed ordinances 20530 and 22161 after the Mun. Code and carefully enacted that the same should be inserted in the Mun. Code between 1708 and 1709, and should be known, respectively, as 1708a [now 1811] and 1708b. Hence present section 1813 is placed after the former two and the wording changed slightly, so as not to render it meaningless because of the insertion of two new sections.

Vehicles of non-residents cannot be taxed: See *St. Charles vs. Nolle*, 51 Mo. 122.

Sec. 1814. Registered number, how kept—penalties.—There shall be placed and kept conspicuously to view on every vehicle mentioned in this article, the registered number of such vehicle, so that the same can easily be read from the sidewalk. Such numbers shall be in plain, distinct and legible figures, each plate to be not less than one, two or three inches

in width, and placed on each vehicle in the following manner: On drays and carts, the number shall be cast on metallic plates and placed on the outer side of the right shaft three inches in front of the body or bed of the cart or the dray; on wagons, the numbers shall be cast on metallic plates, and placed on the hind axle, or where a body is used on such wagons, said numbers shall be placed on the right outer side thereof; on baggage wagons and furniture cars, the number shall be cast or painted on metallic plates, and placed on the right outer side of the body; on hackney carriages and cabs that occupy stands, the number shall be painted on the outer glass of the lamps in red color not less than two inches in length; and on omnibuses, the number shall be placed on some conspicuous place on the right outer side of the body thereof, so that it can be easily read from the sidewalk; and on private carriages, barouches and buggies, the numbers shall be cast or painted on neat metallic plates, and placed upon said vehicles upon the spring bar [or foot board*] or rear end of said vehicles, or owners of vehicles so desiring it may place the number plate on the outer side of the trace of the off horse, not more than ten inches from the collar of the horse, the same to be kept conspicuously in view. Painting or covering over the plates, or placing the plate upon any other vehicle than the one for which the same was issued, except as hereinafter provided, will be deemed a misdemeanor, and upon conviction, the owner of the vehicle shall be fined as provided in section eighteen hundred and thirty-one. A copy of this section shall be furnished by the license commissioner [license collector] to each and every person taking out a license under the provisions of this article; provided, any person or persons who shall be the owner or owners of more than one vehicle belonging to either class aforesaid, and who shall use but one of said vehicles at any one time upon the streets of the city, and who shall have complied with the provisions of this article, and in accordance therewith paid his license under said classification, shall be permitted to place the number of said license upon the harness of the horse or horses intended to be used in connection with said vehicle and a registered number of a higher grade may be issued on or for a vehicle taxed for a less amount by the same person; and provided further, [that all vehicles kept at hotels for the use of hotel patrons shall be exempt from the provisions of this section; and*] that all vehicles belonging to the City of St. Louis, or claimed as exempt from license by reason of being in the service of the city, shall have the word "city" painted on both sides of the outside of the bed or body of said vehicle. (M. C., sec. 1710.)

*Those parts of above section 1814 as are enclosed in brackets were not enacted with the Revised Code, but are amendments to the old section, enacted in ordinance 22899, approved March 13, 1907, after the revision ordinance had been introduced and while it was pending, and hence was not included therein.

Sec. 1815. Plates with numbers—by whom furnished—how furnished.—The register shall furnish the metallic plates to the license [collector], who shall issue them without charge to the applicant for license, on such vehicles as are required to have the number on metallic plates, and the figures shall be case upon plates and raised so as to be easily distinguished. The metallic plates shall be punched or perforated in such a manner that they may be fastened with wood screws on the vehicle or with leather straps to the trace of the harness. (M. C., sec. 1711.)

Penalty for using stolen, counterfeit or unauthorized license plate, see R. C., 1618.

Sec. 1816. License collector—duty of.—It shall be the duty of the license commissioner [now license collector] when the annual tax of any

vehicle mentioned in this article has been paid, to register the same, and give the party applying for the license the number to be put thereon. (M. C., sec. 1712.)

Sec. 1817. Bond to be given—conditions.—[The party applying for a license for a public vehicle shall, before the same shall be issued, enter into a bond with the city, with sufficient security, to be approved by the license [collector], in a sum not less than three hundred dollars, conditioned for the safe delivery of all property delivered to him, or his servant or agent, to be conveyed, and for the payment of all damages which may accrue to any person by his negligence or that of his servants, agents or employes, in and about the use and management of the vehicle licensed, and the said bond may be sued upon in the name of the city by any person injured by a breach of the conditions thereof.] (M. C., sec. 1713.)

These provisions in sec. 1817-1820, relating to bonds, were of doubtful validity, and they are all repealed by ordinance No. 22595, approved Oct. 15, 1906, too late to be omitted from this revision ordinance, which was submitted to the Assembly prior thereto.

Sec. 1818. Additional bond required.—[Whenever application is made to the license collector by the owner of any baggage wagon or hackney carriage [or other vehicle,] for a license, and bond shall have been given by such person as provided in the preceding section, the license collector shall, before issuing the license to such person, certify to one of the police justices the name of the person applying for the license, the kind of vehicle, and the number thereon, and such person shall enter into additional bond, with good and sufficient security, to be approved by the police justice, in a sum not less than one hundred dollars, conditioned, that he will strictly observe and abide by all requirements, provisions and penalties of this article; and the police justice, after approval thereof, shall transmit said bond to the license collector, who shall file the same in his office, whereupon the license collector may issue the license to such person.] (M. C., sec. 1714.)

Repealed. See preceding note. But apparently in ignorance of the repeal, and not noticing the same, an amendment was sought to be made by ordinance 22899, approved March 13, 1907, by adding the words, "or other vehicle," above indicated in brackets. Ord. 22899 is therefore, it seems, of no validity.

Sec. 1819. Form of bond.—[Such bond may be in the following form: Know all men by these presents, that we, . . . as principal, and . . . as security, acknowledge ourselves indebted to the City of St. Louis, in the sum of . . . dollars, to be levied of our goods and chattels and tenements, and for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents. The condition of the above obligation is such, that whereas the above bounden . . . has this day applied to the license collector to be numbered as the . . . thereof. Now, if the said . . . shall strictly observe and abide by the requirements, provisions and penalties of the ordinance under which he is to be licensed as the . . . of said vehicle, then this obligation is to be null and void; otherwise to remain in full force and effect in law. In testimony whereof, we have hereunto set our hands and seals, this . . . day of . . . A. D. nineteen hundred, police justice.] (M. C., sec. 1715.)

Repealed: See note to sec. 1817.

Sec. 1820. [Bond—when may be declared forfeited—penalties.—Any person, the owner or driver of any public vehicle, as provided herein, who shall be convicted of violation of any of the provisions of this

article, shall suffer the fines and penalties as set forth and provided, therein, and the police justice may, in addition, declare his bond forfeited, give judgment for the full amount of bond, against the principal and his security, and issue execution thereon. The police justice shall direct the execution to the marshal, commanding him forthwith to levy the same of the goods and chattels of the defendant, and his security, within the City of St. Louis, and expose the same for sale, agreeably to law. And the marshal shall make return of the execution to the police justice, with his return thereon indorsed, how he executed the same, within thirty days from its date; and in all cases where the police justice has declared any bond forfeited, and given judgment thereon, as herein provided, he shall have final jurisdiction, and all these cases shall be tried and disposed of in a summary manner, without delay, and upon the first appearance of parties in court.] (M. C., sec. 1716.)

Repealed: See note to sec. 1817.

Sec. 1821. Vehicles subject to license—returns to be made—penalty—exceptions.—Every keeper, owner, proprietor or agent of any livery or boarding stable, and the owner or owners of all vehicles, shall in January of each year state under oath to the license collector how many vehicles of every description are owned, used or kept by him or them, and the license collector may examine every such person on oath touching the number of such vehicle owned, used or kept by him during the year next preceding the date of making such statement, and also the number owned, used or kept by him or them, at the time of making such statement; and if it shall appear to the license collector that any person has, at any time during said year, owned, used or kept a greater number of such vehicles than the number upon which he shall have paid the license required by ordinance, the license collector shall forthwith institute proceedings to recover from such person or persons the amount of such license, together with all the penalties and costs prescribed by this article; provided, that a person who purchases a vehicle subsequent to the first day of April shall not be subject to any penalties in regard to such vehicles if he takes out a license thereon before using such vehicle on the streets. And should the license collector at any time find that any party has made any false statements under oath as to matters embraced within the provisions of this article, it shall be the duty of the license collector to forthwith report the same to the circuit attorney for his action thereon. (M. C., sec. 1717.)

Sec. 1822. Vehicles—lights at night—penalty for violation.—On every hackney carriage, cab or cabriolet, when driven in the night, shall have [be] fixed on some conspicuous part of the outer side thereof, two lighted lamps, with plain glass front and sides, on which shall be painted in red and legible figures, at least one inch long, the registry number thereof. All omnibuses, when driven in the night, shall have lighted lamps or candles inside thereof, with number of said omnibus in front of said lamp or light. All wagons, trucks, automobiles, bicycles and all other wheeled vehicles [except as below specified], while in use on the streets at night, shall display one or more lights or lanterns. [All trucks, wagons or other vehicles intended for heavy hauling, and whose ordinary use is during the daylight hours, shall while in use on the streets at night, display one or more lights between the hours of eight p. m. and five a. m.] A fine of not less than five nor more than twenty-five dollars shall be assessed for a violation of any of the provisions of this section. (Ord. 21471 and 22899, amending M. C., sec. 1718.)

Amended by ord. 22673, approved Nov. 15, 1906, and No. 22899, approved March 13, 1907, too late to appear in the Revised Code. See Appendix. The amended portions are indicated by being inclosed in brackets to sec. 1822 above.

As to lights on automobiles, see also sec. 1556.

Sec. 1823. Rates of fare allowed—for hackney carriage.—For the use of any hackney carriage licensed as aforesaid the owner shall be entitled to charge, demand and receive the following compensation, and no more: For conveying one or more passengers a distance of not exceeding one mile, one dollar, and every additional mile fifty cents; all public hackney carriages shall be entitled to charge and collect one dollar and fifty cents for the first hour, and one dollar for each additional hour. (M. C., sec. 1719.)

For Charter authority to fix rates, see Charter, Art. III, sec. 26, clause 5.

Sec. 1824. Same—for cab or one-horse vehicle.—For use of any cab or cabriolet or one-horse vehicle licensed as aforesaid the owner shall be entitled to charge, demand and receive the following compensation, and no more: For one mile or less, for each passenger, twenty-five cents; for each additional mile, for one or two passengers, twenty-five cents; for an additional one-half mile after the first mile, fifteen cents for one or two passengers; for the first stop of five minutes no charge shall be made; for any subsequent stop ten cents shall be charged for each ten minutes or part thereof; for any package too large to carry inside, ten cents; for one or two persons within the limits of three miles from the court-house, seventy-five cents per hour; for each quarter of an hour additional or fraction thereof, twenty cents; for one or two persons outside of said three-mile limit, one dollar per hour; for each quarter of an hour additional or fraction thereof, twenty-five cents; for a continuous stop of one-half hour or more when carrying any person at the last named rate, seventy-five cents per hour may be charged while waiting. (M. C., sec. 1720.)

Sec. 1825. Rates by hour for cabs, etc.—In all engagements made by the hour of said cabs, cabriolet or one-horse vehicles, when discharged more than a half mile from the stand from which they start, the time necessary to return thereto shall be charged for at the rate of seventy-five cents or one dollar per hour, as the case may be. (M. C., sec. 1721.)

Sec. 1826. When rates may be doubled.—The above rates for all services between twelve o'clock midnight and six o'clock a. m. may be doubled. (M. C., sec. 1722.)

Sec. 1827. Posting of rates required in cabs, etc.—The above rates and conditions must be posted in plain, legible type, in a conspicuous place in every cab, cabriolet or one-horse vehicle aforesaid, and the driver thereof shall be provided with printed slips bearing the name of the owner of the vehicle, the number of it and the rates of fare, and shall deliver one to each passenger on his first entry into the vehicle. (M. C., sec. 1723.)

Sec. 1828. Omnibus rates to stations.—The owner or driver of any omnibus licensed to run to the several railroad depots, hauling passengers to and from such railroad depots within the city limits, shall be entitled to demand and receive no more than fifty cents for each passenger and ordinary baggage, and shall convey such passengers to any part of the city, within the limits defined as follows: Hebert street on the north, Arsenal street on the south, Grand avenue on the west and the river on the east, in any direction from said railroad depot he or they may require. The owner or driver of any baggage wagon shall be entitled to demand and receive for ten blocks, fifty cents; for any distance over ten blocks shall be according to agreement, if there is no agreement, the charge shall be at the rate of fifty cents for every ten blocks. (M. C., sec. 1724.)

Sec. 1829. **Furniture car rates.**—The owner or driver of any licensed furniture car or wagon shall be entitled to charge, demand and receive for putting a load upon his car or wagon, transporting the same and putting the same off, one dollar and twenty-five cents for the whole. (M. C., sec. 1725.)

Sec. 1830. **Posting of rates in carriages, regulations, etc.**—The owner or driver of any hackney carriage, or other vehicle used for the transportation of persons for hire, shall keep on the inside of each carriage or vehicle, hung up in a conspicuous and prominent manner so as to be easily seen and read, a printed copy of the rates of established fare by this article. Said copy shall be printed in black ink, on thick white card paper, not less than ten inches square, and the type used for printing said rates shall be Roman type, not less in size than that known as double primer, and passengers or other persons employing such carriage or other vehicle shall have the right to examine such copy before paying their fares. Said cards to be furnished by the license collector [commissioner; provided that the provisions of this section shall not apply to private carriages or to carriages owned and used by livery stables.] (M. C., sec. 1726.)

The proviso, indicated in brackets above, was not enacted with the Revised Code, but is an amendment added by ord. 22899, approved March 13, 1907, after the Revised Code was submitted to the Municipal Assembly and before its passage, hence too late to be included therein.

Sec. 1831. **Violations of article—penalties.**—Any owner or driver of any vehicle mentioned in this article, who shall fail or refuse to place and keep the number of such vehicle in a prominent place thereon, as herein required, or shall fail to pay the license specified in section 1810, or shall in any other respect violate or fail to comply with any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten nor more than two hundred dollars. (M. C., sec. 1727.)

Sec. 1832. **Penalties—refusal to carry passengers, or pay fare, etc., frauds on owners of vehicles.**—Any owner or driver of a cab, hackney carriage or omnibus, who, when required, shall fail, neglect or refuse to carry any passenger or his baggage, and any such person who shall ask, demand, or receive for conveying persons or property more than the sum allowed by this article, or shall in any other manner violate or fail to comply with any of the provisions of this article, a penalty for which is not herein expressly fixed; also any person who shall hire any licensed cab, hackney carriage or omnibus by the hour or by the mile or for any other special services and who shall refuse or evade or attempt to evade a payment to the driver or owner thereof the charges authorized by this article for such services, or any such person who, by use and by means of any trick, deception or device, commonly called the "confidence game," or by means of any fraud, false statement or pretense, shall defraud or attempt to defraud the driver or owner of any of the aforesaid vehicles out of the authorized charges for the services thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than five nor more than one hundred dollars. (M. C., sec. 1728.)

For overcharging, see *infra*, secs. 1839 *et seq.*

Sec. 1833. **What vehicles deemed to be hired out.**—All vehicles used for the transportation of property, which property does not belong to the owners of the vehicles so used shall be deemed to be hired out, and shall be subject to license accordingly, and the owners or possessors of

the property may be examined under oath by the inspector touching the ownership of such property and vehicles, and they shall also appear before the license collector when cited by him, and he may examine them under oath touching the ownership of such property and vehicles. (M. C., sec. 1729.)

Sec. 1834. License collector to perform duties of vehicle inspectors.—It shall be the duty of the license collector and his deputies to perform all duties heretofore performed by the vehicle inspectors and their assistants, and to carry out all the provisions of ordinances pertaining to collection of the revenue from vehicles, except the receipt of the license fee. (M. C., sec. 1730.)

Sec. 1835. License to drive public vehicle.—The license collector is hereby authorized and directed to issue a license to any person of good moral character to drive any public vehicle without any charge, which said license shall authorize the person therein named to drive the vehicle or vehicles therein named and specified for the period of one year, but no such license shall be transferable, and no person other than the one so licensed shall be allowed to act under said license; provided, that but one person shall be allowed to drive or solicit business for any one wagon or vehicle, whether it be the proprietor or an employe, and the license collector shall issue but one driver's license to each wagon or vehicle, whether it be issued to the proprietor or employe; provided, also, that the license collector shall immediately upon the passage of this article, recall and cancel all drivers' licenses now in force, and issue new ones in lieu thereof, in conformity with this article; provided that no vehicle license shall be issued for less than one year, except when necessary to make all vehicle licenses expire on the same day. And any person applying for a license after the date fixed for the expiration of such licenses, shall pay for the full year from said fixed date. Any person or persons, other than the one herein authorized, who shall drive or solicit business for any wagon or vehicle, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than ten nor more than fifty dollars for each offense. (M. C., sec. 1731.)

Sec. 1836. Badge and number to be worn.—The license issued, as provided in the foregoing section, shall correspond in number with the licensed vehicle, authorized thereby to be driven, and the person so licensed as driver shall procure a leather or metallic badge, upon which shall be painted or engraved, in conspicuous figures, the number of the vehicle such person is then engaged in driving, which badge shall be worn at all times when engaged in driving such vehicle, or when endeavoring to procure persons or property for transportation, in a conspicuous place upon the hat or cap, so as to be easily seen by all persons transacting business with him; and no person, not so licensed as such driver, shall wear such badge or number. (M. C., sec. 1732.)

Sec. 1837. Drivers—to what ordinance applicable—duty of owners of sprinkling carts.—The provisions of the next preceding section, except so much thereof as relates to the numbering of the license, shall apply only to the driver having charge of any hackney carriage, cab or cabriolet, occupying any stand upon the levee, or at any railroad station in the city, or that are used specially to convey passengers to and from said railroads or levee. It shall be the duty of the owner or owners of every cart or vehicle, used in sprinkling streets in the city, or in hauling water for

other purposes, to cause the name or names of such owner or owners to be prominently placed on such cart or vehicle, in large, distinct letters, such as the assessor and collector of water rates shall direct. (M. C., sec. 1733.)

Sec. 1838. Produce wagons exempt—license of manure carts.—All vehicles used exclusively for bringing to market any produce or provisions of the owners' own raising shall be exempt from the provisions of this article, and all vehicles used by agriculturists for the purpose of hauling manure shall pay a license of one dollar each per annum. (M. C., sec. 1734.)

ARTICLE III.

OF REGULATIONS AND PENALTIES.*

Sec. 1839. Overcharge—penalty for.—Every owner, driver or other person having charge of any hackney carriage, cab, cabriolet, baggage wagon, or other vehicle, who shall extort, exact, charge, demand or receive as compensation any sum for the use or hire of any such vehicle, exceeding the compensation allowed by ordinance, shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than twenty-five nor more than one hundred dollars, and in addition thereto the license of such vehicle, in whosoever name the same may have been granted, shall be declared forfeited to the use of the city. (M. C., sec. 1735.)

See also R. C., sec. 1832.

Sec. 1840. Overcharge—denial of license for five years.—Any owner, driver, or other person convicted of a violation of section 1839, shall not be again entitled to obtain a new license for any vehicle mentioned in this chapter, of which he may be the owner or driver, or of which he may have control, for the term of five years from the date of such conviction. (M. C., sec. 1736.)

Sec. 1841. Overcharge—reports of convictions for—to whom made—examination before issuing license.—It shall be the duty of the clerks of the police courts upon any person being convicted of a violation of the provisions of this article to make a written return within two days thereafter to the license collector, giving the date and name of the person so convicted, also the number of the vehicle of which he may be the owner or driver, and thereupon it shall be the duty of the license collector to enter the same in a book to be by him kept for that purpose, which book shall be open at all times to public inspection, on application and upon any person or persons applying for a license for any hackney carriage, cab, cabriolet, baggage wagon, or vehicle, it shall be the duty of the license collector before issuing a license to such person or persons, to examine such person or persons under oath; and if it be found, on such examination, that such person or persons were, at any time within five years before making such application convicted of violating any of the provisions of this chapter, the license collector shall refuse to issue a license to such person or persons. (M. C., sec. 1737.)

Sec. 1842. Officers—penalties against.—Any officer whose duty it shall be to enforce the provisions of this chapter, and who shall wilfully connive, refuse or fail to perform the same, shall be deemed guilty of a mis-

*For penalty for using stolen, counterfeit or unauthorized license plate, see R. C., sec. 1618.

demeanor, and on conviction thereof, be fined not less than fifty nor more than one hundred dollars. (M. C., sec. 1738.)

Sec. 1843. Drivers—duties of—penalty.—It shall be unlawful for the driver or other person having charge of any hackney coach, omnibus, carriage, coupe, cab, cabriolet or one-horse or other vehicle (licensed to carry passengers for hire in St. Louis), to be off or away from the same while it is passing along the streets and public places of the city; and it shall be unlawful for such driver or person aforesaid to stand, while waiting for employment at any other place than that assigned for his vehicle, or to snap or flourish his whip, or to be away from his vehicle, or to sit or stand about the doorsteps or platforms, or in front of any house, store or other building, to the annoyance of the occupants thereof, and for every violation of this section he shall be fined not less than ten dollars for each offense. (M. C., sec. 1739.)

[**Sec. 1843a. Hackney carriage defined.***]

*After submission of the Revised Code ordinance and just before its passage, hence too late for insertion therein, ordinance 22899, approved March 13, 1907, was enacted, which amongst other things enacted a new section, which if in time, would have been sec. 1843a of the Revised Code, hence attention is directed thereto in this note. Said enactment is as follows:

"Section Two. Article Two of Chapter Twenty-three of the Municipal Code is hereby further amended by adding thereto a new section to be known as Section Seventeen Hundred and Thirty-nine A, as follows: Section Seventeen Hundred and Thirty-nine A. Wherever the term hackney carriage is used in the preceding sections it shall be understood to mean a carriage that stands on the public streets or at public hack stands, soliciting public patronage, and it shall not be understood to mean a carriage kept by a livery firm for private use or for private orders only. Approved March 13th, 1907."

ARTICLE IV.

OF STANDS FOR VEHICLES.

Sec. 1844. Stands for vehicles—police commissioners to select.—It shall be the duty of the police commissioners of the City of St. Louis to select and designate suitable and convenient places and parts of streets and avenues as stands for coal wagons, wood carts, furniture cars, hackney carriages, cabs, cabriolets and other vehicles, which usually occupy parts of the public streets and avenues by their owners, temporarily, for the purpose of making sales or seeking employment. (M. C., sec. 1740.)

Sec. 1845. Stands, when and how designated.—The selection or designation of stands, required to be made in the preceding section, shall be made in writing on or before the first day of January in each year, and be submitted to the mayor for his approval; and if such selection and designation shall be approved by the mayor, a copy thereof shall be filed in the office of the street commissioner, and any changes that the police commissioners may find it necessary to make in their respective districts, with a view to public convenience, shall in like manner be submitted to the mayor, and if approved the copy shall be filed in the office of the street commissioner. (M. C., sec. 1741.)

Sec. 1846. Stands—duty of police commissioners.—It shall be the duty of the police commissioners to publish twice each year, by at least fifty hand-bills, posted in conspicuous and most public places throughout

the city, a list or brief description of the streets, parts of streets or places selected and designated as stands for the purposes specified in the preceding sections of this article. (M. C., sec. 1742.)

Sec. 1847. Stands excluded from certain streets.—No stand for any coal wagon, cart or other vehicle used for the carrying of coal, or for any wood cart, shall be selected on any street, lane or avenue of this city east of Sixth street, and between Franklin avenue and Elm street; nor on any street east of Broadway, and between Cherry street and Biddle street; nor on Broadway between Franklin avenue and Biddle street; nor on any street, lane or avenue east of Fourth street between Elm street and Plum street; nor shall any stand be selected for furniture cars, hackney carriages, cabs or cabriolets, on any street, lane or avenue east of Fourth street between Elm street and Franklin avenue. (M. C., sec. 1743.)

Sec. 1848. Stands—as designated, to be occupied.—It shall be the duty of all owners, drivers or other persons in charge of any wood cart or coal wagon, or other vehicle used for the conveyance of coal, or offering the same for sale in the city to occupy with their wagons, carts or vehicles the stand or stands which shall be selected and designated by the police commissioners in pursuance of this article; and such coal wagons, carts or other vehicles shall not be allowed to stand, nor shall coal be offered for sale or sold from any wagon, cart or other vehicle, in any street, lane or avenue, except such as shall be designated as aforesaid; nor shall any furniture car, hackney carriage, cab or cabriolet occupy any part of any street, lane or avenue as stands, except the places selected and designated for that purpose, and every owner of any such wagon, cart or vehicle, or his agent, driver or person in his employ, or the owner, agent, driver or person in charge of any furniture car, hackney carriage, cab or cabriolet, within the purview hereof, who shall violate any of the provisions of this article, or any of the rules and regulations made in pursuance thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than five nor more than fifteen dollars for each and every offense; provided, that nothing in this article shall be so construed as to prevent the selling of any coal while at the weigh scales, or while passing to and from any of the stands which may be selected in pursuance hereof. (M. C., sec. 1744.)

Sec. 1849. Stands for coal, wood and long feed, where located.—So much of Broadway as lies between the north side of Bates street and the south side of Howard street is hereby set apart and established as a stand for vehicles used in carrying wood or coal, or long feed for horses and cattle, to wit: Hay, straw, fodder and similar articles; that part of Twelfth street lying between Olive street and St. Charles street is hereby set apart and established as a stand for said vehicles; and that part of the Soulard market place between Fulton and Deatur streets is hereby set apart and established as a stand for said vehicles. All persons bringing such long feed in vehicles to this city for sale are required to occupy one of said stands. (M. C., sec. 1745.)

Sec. 1850. Stands—around court house established—regulations.—The streets bounding the court house and in front thereof, to wit: On Fourth, Fifth, Chestnut and Market streets, are hereby established as hack stands in the City of St. Louis. An open space of not less than fifty feet shall be left free and clear on Fourth and Fifth street wings, opposite the entrance thereof, and an open space of not less than fifty feet

shall be left free and clear on the Chestnut and Market street wings, opposite the entrance thereof. The horses and hacks on the north line of the space on Fourth and Fifth street shall front to the north, and those on the south of said space on the streets last aforesaid shall front to the south, and those on the west line of the space on Chestnut and Market streets shall front to the west, and those on the east line of the space last aforesaid shall front to the east. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than five nor more than twenty dollars. (M. C., sec. 1746.)

Sec. 1851. Stands in front of private premises—how regulated.—Occupants of premises in front of which it is desired to stand for employment cabs, cabriolets, carriage, coupe or one-horse vehicle, may give permission in writing to the owner or driver so to do, which permission shall not be effective until it is approved by the mayor, and it may be revoked by the mayor at any time, whereupon all rights under it shall at once cease and be ended. (M. C., sec. 1747.)

ARTICLE V.

OF STEAM CARS AND STEAM RAILROADS.*

Sec. 1852. Gates at crossings required—watchman.—Every person, association or corporation running or operating engines or cars propelled by steam power upon its railroad track or tracks, along or across any street, avenue or road in the City of St. Louis [which is] now, or which may hereafter be, used for wagon travel, shall erect at all cross or intersecting streets, avenues or roads so used, or which may hereafter be used, a gate or gates made of wood or iron or other suitable material, and unless said gates are opened and closed automatically, such person, association or corporation shall keep a watchman to operate said gate or gates, who shall close the same immediately before the passage of any engine, car or train of cars, and open the same immediately after such passage. Such gate or gates shall be so erected on such improved streets, avenues or roads within thirty days after such person, association or corporation shall be notified so to do by the street commissioner of the city. Provided, however, that this article shall not apply to any cross or intersecting avenue, streets or roads that are now or may hereafter be bridged over and across the railroad tracks; and provided, further, that this article shall not apply to any cross or intersecting streets, avenues or roads on which are laid tracks used exclusively for switching purposes, or for switch tracks. (M. C., sec. 1748.)

Secs. 1852 and 1853 are authorized by the Charter, and gates erected in pursuance thereof in the streets are not nuisances: *Seibert vs. Railroad*, 188 Mo. 657. If the ordinance has been complied with, its admission, if error, is harmless: *Mulderig vs. Railroads*, 116 Mo. App. 655, 665. The failure to station a watchman at a crossing when required by ordinance has been held negligence *per se*: *Thomas, J., in Dickson vs. Ry.*, 104 Mo. 491, 501, citing a number of cases as so holding.

Sec. 1853. Penalty.—Any person, association or corporation failing to observe and comply with the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof in the police court of the city, shall be fined not less than one hundred dollars, nor more than five

*See Charter, Art. III, sec. 26, clause 11; as to difference respecting the authority of municipalities in conferring the use of streets upon street railways and steam railways, see *State ex rel. vs. Corrigan Street Ry.*, 85 Mo. 263-275.

hundred dollars for each and every offense, and every day's violation thereof shall constitute a separate offense. (M. C., sec. 1749.)

Sec. 1854. **Duty of police.**—It is hereby made the special duty of the police to enforce the provisions of the two preceding sections, and to this end each patrolman shall report any violation thereof coming to his knowledge to his superior officer daily, and shall arrest all employes, watchmen or persons guilty of a violation of section one thousand eight hundred fifty-two. (M. C., sec. 1750.)

Sec. 1855. **Definition of term "streets," etc.**—Whenever the words "streets, avenues or roads used for wagon travel" are used in this article they shall be construed to mean streets which have been opened by ordinance. (M. C., sec. 1751.)

Sec. 1856. **Rate of speed.**—It shall not be lawful within the limits of the city for any person, association or corporation to run any engine, car or train of cars propelled by steam power at a rate of speed exceeding six miles per hour, over, along or across any cross or intersecting improved street, avenue or road, which is now or may hereafter be used for wagon travel, if such person, association or corporation shall have failed to comply with a notice from the street commissioner, specified in section one thousand eight hundred fifty-two. But after compliance therewith it shall be lawful for any person, association or corporation to run its engines, car or train of cars at a rate of speed not exceeding twenty miles per hour. (M. C., sec. 1752.)

Rate of Speed.

Ordinances of cities regulating the speed of railway trains are police regulations, and the municipalities have such power, though not given in express terms, as it may be implied from the power to abate nuisances or provide for the general welfare, etc.: *Bluedorn vs. Ry.*, 108 Mo. 439; *Jackson vs. Ry.*, 157 Mo. 621, 639; *Merz vs. Ry.*, 88 Mo. 672; *Sluder vs. Transit Co.*, 189 Mo. 107, 131-132 (also holding that no acceptance by the company is required to make it amenable to police regulations, and citing a large number of cases on cognate points); *Neier vs. Mo. Pac. Ry.*, 12 Mo. App. 25, 34 (holding also that it makes no difference that the company obtained its charter direct from the legislature, when such course was permitted prior to the present constitution, nor that the company laid its track with so short a curve and at such grade that it cannot conveniently move its trains at the speed fixed by the ordinance, which in this case was six miles per hour, and the rails along Poplar street): *Gratiot vs. Mo. Pac.*, 116 Mo. 450, 467.

But, where power to legislate is given a municipality, but the mode of its exercise is not prescribed, an ordinance in pursuance thereof, though *prima facie* valid, is subject to judicial review as to its reasonableness or oppressiveness as applied to existing conditions, which is a question for the court and not the jury, and it may be declared void on the ground of its being oppressive or unreasonable: *Zumault vs. K. C. Air Line*, 71 Mo. App. 670, 676 *et seq.*, and cases cited; *White vs. St. L. & S. F. Ry.*, 44 Mo. App. 540; *Plattsburgh vs. Hagenbush*, 98 Mo. App. 669.

But a clear case of unreasonableness or oppressiveness must be established before the court will declare the ordinance void: *Gratiot vs. Mo. Pac.*, 116 Mo. 450, 467, and cases cited; *Neier vs. Mo. Pac. Ry.*, 12 Mo. App. 25 (both being *St. Louis* cases where ordinances limiting speed to six hours were upheld).

The running of a railroad train through the corporate limits of a city in excess of the speed prescribed by ordinance is negligence *per se* and a cause of action results to any person injured by such violation: *Per Gantt, J.*, for the court in banc in *Sluder vs. Ry.*, 189 Mo. loc. cit. 135, referring to numerous cases so holding and expressly affirming *Jackson vs. Ry.*, 157 Mo. 621, 641 and cases following same, (and overruling *Fath vs. Ry.*, 105 Mo. l. c. 545 and the line of numerous cases following the latter); *Gratiot vs. Mo. Pac.*, 116 Mo. 450, 463; *Hutchinson vs. Railroad*, 161 Mo. 246.

But no rate of speed is negligence per se unless contrary to the provisions of express law or ordinance. *Maheer vs. Ry.*, 64 Mo. 267.

The ordinance need not be limited in its application to public highways, but may apply as well to private grounds or switch yards: *Prewitt vs. Ry.*, 134 Mo. 615, 626, approving *Merz vs. Ry.*, 88 Mo. 672, 677, s. c. 14 Mo. App. 459; *Bluedorn vs. Ry.*, 108 Mo. 439, 445-446.

The original ordinance corresponding to sec. 1856, R. C., was not invalid because of defective title: *Bergman vs. Ry.*, 88 Mo. 678.

Sec. 1857. Cars—streets not to be obstructed by—bell to be rung—danger signals to be given.—It shall not be lawful within the limits of the City of St. Louis for any car, cars or locomotives propelled by steam power to obstruct any street crossing by standing thereon longer than five minutes, and when moving the bell of the engine shall be constantly sounded within said limits, and if any freight car, cars or locomotives propelled by steam power be backing within said limits, a man shall be stationed on top of the car at the end of the train farthest from the engine, to give danger signals, and no freight train shall at any time be moved within the city limits unless it be well manned with experienced brakemen at their posts, who shall be so stationed as to see the danger signals and hear the signals from the engine. The steam whistles of danger shall in no case be sounded except in giving the usual signals for running trains. (M. C., sec. 1753.)

As to violations of these provisions as connected with actions for damages from violation thereof, see *Dickson vs. Mo. Pac.*, 104 Mo. 491 (watchman and ringing of bell); *Rafferty vs. Mo. Pac. Ry.*, 91 Mo. 33 (ringing bell and absence of experienced brakeman); *Bergman vs. St. L., I. M. & S. Ry.*, 88 Mo. 678, 682 (absence of brakeman); *Mulderig vs. Railroads*, 116 Mo. App. 655, 665 (holding this ordinance admissible without being specially pleaded).

Failure to ring bell as required by ordinance is negligence *per se*: *Gratiot vs. Mo. Pac. Ry.*, 116 Mo. 450, 464; *Reed vs. Railroad*, 107 Mo. App. 238, 245 and cases cited. Unless such failure does not contribute to the injury: *Hutchinson vs. Ry.*, 161 Mo. 246, 253.

A city under charter provisions to control the streets and general welfare clause may by ordinance limit the time that railway trains may block a street: *Berger vs. Mo. Pac. Ry.*, 112 Mo. 238, 250.

As to obstruction of streets by railroads to the extent of destroying the use of the street for the public, and the consequences of the same, see note under Charter, Art. III, sec. 26, clause 2, where the subject is fully discussed.

Sec. 1858. Penalty.—Any person, persons or corporation violating the provisions of the next two preceding sections, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in the police court in this city, shall be fined not more than five hundred dollars nor less than one hundred dollars for each and every offense. (M. C., sec. 1754.)

Sec. 1859. Poplar street—locomotives on to use coke.—No engine or locomotive run or operated on Poplar street shall use any fuel other than coke; and such engine or locomotive shall moreover, be so constructed as to prevent any offensive or dangerous emission of smoke or cinders. (M. C., sec. 1755.)

Sec. 1860. Poplar street—obstruction of cross streets forbidden.—No locomotive, car or train of cars propelled by steam power shall be permitted or suffered to obstruct the crossing of any street intersecting Poplar street between Ninth street and the levee by stopping or backing for a longer time than two minutes. (M. C., sec. 1756.)

See *Berger vs. Mo. Pac. Ry.*, 112 Mo. 238, 250, as to right to pass ordinance against obstruction of streets for longer than certain time fixed. See as to railroad track on Poplar street authorized by state enactments, *Atl. & Pac. Ry. vs. St. Louis*, 66 Mo. 228.

Sec. 1861 **Penalty.**—Any person, persons or corporation violating any provision of the next two preceding sections shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any police court of this city, shall be fined not less than one hundred dollars and not more than five hundred dollars for each and every such offense. (M. C., sec. 1757.)

Sec. 1862. **Locomotives, etc.—climbing on when in motion forbidden.**—Any person, minor or adult, who shall climb upon, hold to, or in any manner attach himself to any locomotive engine or car while the same shall be in motion or running into or through this city, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars nor more than one hundred dollars for each and every offense; provided, that this section shall not apply to any employe of the railroad company, nor to any passenger, nor to any other person who may be acting by permission or under the rules of the company then operating the road. (M. C., sec. 1758.)

ARTICLE VI.

OF STREET CARS AND STREET RAILWAYS.*

Sec. 1863. **Application of article.**—Every person, corporation, company, co-partnership or association, having any street railway franchise

*By the present constitution of the State the General Assembly is forbidden to grant street railway franchises in a city without first acquiring the consent of the local authorities, nor can such franchise, when acquired, be transferred without similar assent: Const., Art. XII, sec. 20; *St. L. & Mer. Riv. Ry. vs. Kirkwood*, 159 Mo. 239, 252; *Moorshead vs. United Rys. Co.*, 119 Mo. App. 541 (certified to Sup. Ct. and decided there in Feb., 1907, but not as yet reported). *State ex rel. vs. Lindell Ry.*, 151 Mo. 162, 182; *Grand Avenue vs. Lindell*, 148 Mo. 637, 645. See more fully on this point, note to Charter, Art. X, sec. 1.

For the Charter provisions conferring authority over street railways, see Art. X, secs. 1-7 and authorities cited in notes to said provisions. See also Art. III, sec. 26, clause 11, as well as cases above cited.

The power to license, tax and regulate street railway cars is conferred in Chart., Art. III, sec. 26, clause 5.

For ordinances upon the licensing of street railway cars, see R. C., sections 2257 et seq. (Chap. 31, Art. 18.)

For state laws, see collection of statutes on the subject relating to St. Louis, "Laws Specially Applicable to St. Louis," pp. 213-219, secs. 591 et seq. (Chap 33).

The act of 1860 or Third Parallel Law is repealed by virtue of the provisions of the constitution of 1875 and the provisions of the Charter: *State ex rel. vs. Lindell Ry.*, 151 Mo. 162 (discussing the history of street railway legislation affecting St. Louis and the development of the home-rule principle respecting same, and reviewing the cases).

For the prior application of the Third Parallel street law, see *St. Louis Ry. vs. South St. L. Ry.*, 72 Mo. 67; *St. Louis Ry. vs. Northwestern Ry.*, 69 Mo. 65; s. c., 2 Mo. App. 69.

The state statute of 1895 (Julian law), providing for sales at public auction of all franchises involving the use of streets of cities or public corporations, is void because too uncertain and indefinite in its provisions to permit of intelligent enforcement: *State ex inf. vs. Street Ry. Co.*, 146 Mo. 155.

A street railway having its tracks on a public street without authority in law, is a nuisance: See authorities in note to headline, Art. XII, Chapter 11, on "Nuisances."

As to the relations between the St. Louis Transit Co. and United Rys. Co., see *Moorshead vs. United Rys.*, 119 Mo. App. 541, certified to Supreme Court and there decided in Feb., 1907 (not at this writing reported).

or connected with or engaged in the business of transporting passengers from any one point to any other point within the City of St. Louis, for hire, on street railways, shall be subject to all the conditions, stipulations, provisions and requirements of this article. (Ord. 21113, amending M. C., sec. 1759.)

An ordinance promulgating rules for street railways applies to all, no matter what kind of motive power is employed: *Lamb vs. Cable Road*, 33 Mo. App. 489. See also, *Blair vs. Chicago*, 201 U. S. 1. c. 483. As to what constitutes a street railway as distinguished from a railroad, see *Hannah vs. Street Ry.*, 81 Mo. App. 78. See also *Jerman vs. Benton*, 79 Mo. 148; *Ruckert vs. Grand Ave. Ry.*, 163 Mo. 1. c. 276.

Sec. 1864. Rules, regulations and provisions for running street cars.—The following rules, regulations and provisions concerning the running and management of street railway cars shall be binding upon every person, corporation or co-partnership taking out license under the provisions of this article, or managing, controlling or operating street cars in the City of St. Louis.

First: No cars, when not in actual use for passenger travel, shall be kept standing in any street or public thoroughfare, except for the convenience of the public and when manned by motormen and conductors.

Second: No car shall be allowed to stop in front of any intersecting street, except to avoid collision or to prevent danger to persons in the street.

Third: No car shall be allowed to stop on a crosswalk except when signaled or required to stop to receive or discharge passengers, in which case it shall be stopped so as to leave the rear platform partly over the crossing or crosswalk, and except to avoid collision or to prevent danger to persons in the streets.

Fourth: The conductor, motorman, gripman, driver, or any other person in charge of each car shall keep a vigilant watch for all vehicles and persons on foot, especially children, either on the track or moving towards it, and on the first appearance of danger to such persons or vehicles, the car shall be stopped in the shortest time and space possible.

Fifth: Conductors shall not allow women or children to leave or enter the cars while the same are in motion.

Sixth: Conductors shall announce to passengers the names of the streets about to be crossed, and the places where the cars connect with or intersect any railway track or any other line, division or branch of street railways.

Seventh: The cars, after sunset, shall be provided with signal and headlight, and shall be properly illuminated within.

Eighth: The cars shall be entitled to the track, and any vehicle upon the track shall turn out when any cars come up, so as to leave the track unobstructed; and the driver of any vehicle refusing to do so when requested by the motorman, gripman, driver, or any person in charge of any car, shall be deemed guilty of a misdemeanor; provided, that persons moving any article from or to any vehicle shall be, in cases where such vehicle cannot be so placed as to permit the car to pass, allowed a reasonable and sufficient time to load or unload the same, but not so as to delay any one car exceeding ten minutes. If longer time be required such vehicle shall be loaded or unloaded between midnight and five-thirty a. m.

Ninth: All street railroad companies shall operate their roads according to the provisions of their respective charters, except in so far as the same may be inconsistent with, or in conflict with, the requirements and provisions of this ordinance or article.

Tenth: All cars shall be kept comfortably heated whenever the temperature without is below forty degrees Fahrenheit. All cars shall be kept in a cleanly condition, and free from filth or rubbish. Each car shall be identified by the number of the car plainly appearing thereon. At all times while being operated every car shall indicate the line to which the same belongs, or if there be divisions of such line, then the particular division thereof, by signs or lettering plainly legible to persons on the street, or sidewalk, said signs, after sunset, to consist of illuminated transparencies.

Eleventh: It shall be the duty of the motorman or other person controlling the running of a street car to reduce the speed of the same when approaching and passing a fire engine house to not exceed six miles an hour. (Ord. 21113, amending M. C., sec. 1760.)

Charter, Art. X, secs. 1 and 2, confers full authority over street railroads and their regulation and control. See note thereto.

In General:

It is not to be questioned that the City of St. Louis, under the comprehensive grants in its Charter, has the police power to regulate the use of its streets by street car companies (to whom it has granted prior franchises), for the protection of the public which uses them for the paramount purpose for which they are established, to-wit, for travel thereon: *Sluder vs. Transit Co.*, 189 Mo. 107, 130; *Springfield Ry. vs. Springfield*, 85 Mo. 674.

Where an ordinance is in the exercise of the police power of the city, and not of its proprietary right to contract for its municipal advantage, the ordinance does not depend upon the acceptance of the street car companies to make it obligatory upon them to obey it, but it is a municipal law of which all are required to take notice, and it has the full force and effect of law within the city's limits: *Sluder vs. Transit Co.*, 189 Mo. 107, 132, reviewing the authorities in this state; *Riska vs. Ry.*, 180 Mo. 168, 193; *Gebhardt vs. Transit Co.*, 97 Mo. App. 373.

Where the ordinance is contractual with the company, its acceptance must be shown, to bind the company: *Springfield Ry. vs. Springfield*, 85 Mo. 674.

As to what is an acceptance, see *U. D. Ry. vs. Southern Ry.*, 105 Mo. 562; *Campbell vs. Ry.*, 175 Mo. 161, 176; *Schmidt vs. Ry.*, 163 Mo. 645; *Holwerson vs. Ry.*, 157 Mo. 216.

Where in the ordinance conferring the franchise, the rate of speed is limited, no further acceptance need be shown than the operation thereunder of the cars: *Chouquette vs. Ry.*, 152 Mo. 257, 265.

The violation by a street car company of an ordinance passed as a police regulation for the protection of the safety and property of the citizens, is negligence per se, and affords the basis for recovery by a person injured in consequence of such violation: *Sluder vs. Transit Co.*, 189 Mo. 107, (following *Jackson vs. Railroad*, 157 Mo. 621, *Hutchinson vs. Railroad*, 161 Mo. 246, *Karle vs. Railroad*, 55 Mo. 476, *Prewett vs. Railroad*, 134 Mo. 615, *Riska vs. Ry.*, 180 Mo. 168, 193, and other cases holding the doctrine stated, and again overruling *Fath vs. Railroad*, 105 Mo. 537, 545 and the line of cases following that case, including *Byington vs. Railroad*, 147 Mo. 673, *Murphy vs. Railroad*, 153 Mo. 252, *Sanders vs. Railroad*, 147 Mo. 411, *Holwerson vs. Railroad*, 157 Mo. 216, and others, which announced the doctrine that no cause of action arose to a person injured by such an ordinance). *Marshall, J.*, dissents in the *Sluder* case, in a lengthy opinion, citing many Missouri decisions pro and con, on the ground that the city could not, by ordinance, alter the general rights and liabilities between private persons *inter sese* so as to create a cause of action otherwise not existing by general law.

Where the company publishes its reasonable regulations as to where its cars shall stop for leaving passengers, the latter must take notice thereof; and the company may introduce an ordinance prohibiting it from stopping at the place plaintiff sought to alight and was injured: *Jackson vs. Ry.*, 118 Mo. 199; but

not if in conflict with the ordinances: *Maguire vs. Transit Co.*, 103 Mo. App. 459, 472.

Clause Third of section R. C. 1864: See somewhat similar ordinance referred to in *Jackson vs. Ry.*, 118 Mo. 199.

Clause Fourth in above section R. C. 1864 (Vigilant Watch ordinance), is a valid police regulation, based on the same principle as an ordinance regulating speed; it is binding on the companies independently of acceptance by them, and its violation is negligence per se, which affords ground for recovery of damages by one injured thereby: *Sluder vs. Transit Co.*, 189 Mo. 107 (with an elaborate discussion of the authorities in the majority and dissenting opinions, and authoritatively overruling that line of cases holding that a city could not by ordinance create a civil duty enforceable at common law between private persons, of which *Fath vs. Ry. Co.*, *infra*, was the leading case, followed by others); *Riska vs. Ry.*, 180 Mo. 168, 193; *Gebhardt vs. Transit Co.*, 97 Mo. App. 373; *Latson vs. Transit Co.*, 192 Mo. 449.

Independently of the question of furnishing a private cause of action, the validity of the ordinance has been frequently sustained: *Fath vs. Ry.*, 105 Mo. 537; *Liddy vs. Ry.*, 40 Mo. 506, 519; *Holwerson vs. Ry.*, 157 Mo. 216; *Senn vs. Ry.*, 124 Mo. 621; *Schmidt vs. Ry.*, 149 Mo. 269, 284; *Conrad Grocer Co. vs. St. Louis, etc., Ry.*, 89 Mo. App. 391.

Where the action is founded on common law negligence, proof of violation of the vigilant watch ordinance is admissible, even though not specially pleaded: *Meng vs. Railway*, 108 Mo. App. 553, 564; because the ordinance when properly construed is but declaratory of the common law duty of corporations operating street cars in populous cities, and when pleaded is in effect nothing more than an inartificial averment of that duty that should be stated in more apt language than is expressed by the ordinance: *Sepetowski vs. Transit Co.*, 102 Mo. App. 110, 119.

Clause Fifth: See *Shareman vs. Transit Co.*, 103 Mo. App. 515, 520, 529.

Clause Eighth: As to right of way between street cars and vehicles, see *Latson vs. Transit Co.*, 192 Mo. 449, 457; *Oates vs. Street Ry.*, 168 Mo. 535, 544; *Schofete vs. Ry.*, 175 Mo. 142; and see *infra* R. C., secs. 1886-1888; and as to right of way of ambulances of Health department, see ord. 23068.

Clause Eleventh: Fire department not to be interfered with: See R. C., sec. 1885.

Sec. 1865. Regulations as to rate of speed.—No car shall be drawn or propelled at a speed greater than the rate of ten miles per hour in that part of the city bounded by the Mississippi river on the east, Arsenal street on the south and Grand avenue and its prolongation to said river on the west and north, inclusive of both said streets, said district so bounded to be known as the Central District; and no car shall be drawn or propelled at a speed greater than at the rate of fifteen miles per hour in that part of the city not included in the said Central District above bounded and described, to be known as the outer district.

But nothing in this section shall be construed as sanctioning or allowing any car at any time or any place to run at any rate of speed which may be dangerous to the safety of passengers or persons on the streets. (Ord. 21113, sec. 1760a.)

Effect of above ordinance 21113 on speed legislation. Prior to the enactment of ord. 21113, there was no general law applicable to the speed of street car lines in St. Louis, because these were held to be governed by the rates of speed permitted in the numerous various *special* ordinances under which the respective franchises of the companies or their assignors were conferred (so that almost every line and after the consolidation, each of the several divisions, was permitted a different rate): *Ruschenberg vs. Southern Elec. Ry.*, 161 Mo. 70. To avoid this condition of affairs and the confusion and uncertainty on the part of the public growing out of it, and substitute a harmonious law, ord. 21113 fixed the general rate of speed and made it applicable throughout the city by the repeal, in express terms, of the speed provisions in the special ordinances, (as a police regulation which could not be contracted away in the special ordinances by the city); ord. 21113, in clause 3 of sec. 1760a thereof, therefore expressly repealed the inconsistent provisions in the following special ordinances:

Nos. 19738, 19429, 19393, 19392, 19352, 19350, 18231, 18677, 18050, 18049, 18048, 18047, 18010, 17693, 17375, 17185, 17184, 17183, 17072, 17048, 17047, 17021, 17010, 17009, 17008, 17004, 16704, 16641, 16640, 16639, 16169, 15954, 15803, 15802, 15801, 15642, 15606, 15605, 15604, 15603, 15602, 15601, 15600, 15547, 15445, 15160, 15023, 14600, 13282, 12652 and 4564.

As to rate of speed of company whose cars are by law permitted to run over the tracks of another company, see R. C., sec. 1899.

Ordinances regulating the speed of street railway companies are very clearly within the police powers of the City of St. Louis, and are binding on all who come within the scope of their provisions, regardless of any question of acceptance by the companies, and their violation is negligence which, when resulting in injury to a private person, is ground for a civil action (the later cases overrule a line of former cases holding that a private cause of action was not created by violation of an ordinance): See authorities in preceding note; also *Sluder vs. Transit Co.*, 189 Mo. 107, 130; *Riska vs. U. D. Ry. Co.*, 180 Mo. 168, 194. See also *Story vs. Transit Co.*, 108 Mo. App. 424, 430.

And see authorities to same effect in note to regulation of speed of steam roads, *supra*, sec. 1856.

But in a suit by a conductor against the company, the latter cannot defend that its servant obeyed the rules, even in violation of the ordinance: *Moore vs. Transit Co.*, 193 Mo. 411, 420.

Authority by ordinance to run at certain speed does not confer on the company the right to do so, where it is dangerous under the particular circumstances: *Schmidt vs. Ry.*, 149 Mo. 269; *Holden vs. Ry.*, 177 Mo. 456; *Beier vs. Transit Co.*, 197 Mo. 215; *Story vs. Transit Co.*, 108 Mo. App. 424, 430.

As to speed in absence of ordinance or statute, see *Petty vs. Ry.*, 179 Mo. 666; *Holden vs. Ry.*, 177 Mo. 456; *Warner vs. Ry.*, 178 Mo. 125; *Theobald vs. Transit Co.*, 90 So. W. (Sup.) 354; *Latson vs. Transit Co.*, 192 Mo. 449.

Sec. 1866. Regulations where street car tracks intersect steam or street car tracks—right of way as between street cars.—

At all points where the street car tracks may intersect or cross any steam railroad track every street car shall be brought to a full stop not less than ten nor more than twenty-five feet from nearest point of intersection, and shall not proceed to cross said railroad track until, upon sufficient investigation, the conductor or other proper agent appointed by the company for that purpose is assured there is no danger of collision, whereupon the person in control of said car shall be signaled to proceed. And at all points where the street railway track intersects or crosses other street railway tracks, the car shall be stopped immediately before crossing the same, so as to avoid danger of collision. The car going in an eastwardly or westwardly direction over, on or crossing any intersecting street upon which other street cars are run shall be entitled to the right-of-way to pass before any car going in a northwardly or southwardly direction at the point of intersection of such streets. And it shall be the duty of the conductor, motorman, gripman, driver, or any other person in charge of the car going a northwardly or southwardly direction to run the car when approaching the intersection of other street railways so as to stop in due time and give the right-of-way to the car going in an eastwardly or westwardly direction on the intersecting line. But in no event shall this clause be so construed as to sanction or allow a willful or wanton collision by the conductor, motorman, gripman, or driver of a car running in an eastwardly or westwardly direction. (Ord. 21113, sec. 1760a, par. 2.)

See similar statutory provision R. S. 1899, sec. 1180 (ante "Laws Applicable to St. Louis," sec. 618).

Sec. 1867. Time schedules—how changed.—All persons, corporations or associations running, operating or controlling the regulation or operation of street cars, or the time schedule for the same, shall be required to observe and conform to the following requirements and regulations:

First: Unless, and until, amendments or alterations to be effected as provided in clause fourth of this section, the cars of each and every line, corporation or association, operated or running in whole or in part within the Central District, or that bounded by the Mississippi river, Arsenal street and Grand avenue and its prolongation to the river, said streets inclusive, shall be so operated, managed, regulated and scheduled that in the starting of the successive cars from the starting points for the trips over the route, there shall never, from half-past five forenoon, to half-past eight forenoon, nor from half-past four o'clock to half-past six o'clock in the afternoon, be an interval of time exceeding three minutes, except on Sundays and legal holidays, when such intervals shall not exceed four minutes; and from half-past eight o'clock forenoon to half-past four o'clock afternoon of every day, such intervals shall not exceed six minutes; and from half-past six o'clock afternoon to midnight, such intervals shall not exceed six minutes, and from midnight to half-past five o'clock forenoon such intervals shall not exceed one hour. In every case successive cars having started within the respective periods of time above indicated, no greater interval of time than the maximum interval for starting shall be permitted to elapse between the passing of any such cars at any point along the route until the trip is completed.

Second: Unless, and until, amendments or alterations be effected as provided in clause fourth of this section, the cars of each and every line, corporation or association, operated or running wholly within the outer district, namely, all that portion of the city not included in the Central District above bounded, shall be so operated, managed, regulated and scheduled that in the starting of the successive cars from the starting point for the trips over the route, there shall never from half-past five to half-past eight forenoon, nor from half-past five to seven o'clock afternoon, be an interval of time exceeding six minutes; and from half-past eight forenoon to half-past five afternoon of every day, and also from seven o'clock afternoon to midnight, such interval shall not exceed seven minutes; and from midnight to half-past five o'clock forenoon, such intervals shall not exceed one hour. In every case successive cars having started within any of the respective periods of time above indicated, no greater interval of time than the maximum interval for starting shall be permitted to elapse between the passing of such cars at any point along the route until the trip is completed.

Third: Where any person, corporation or association operates or runs cars all of which do not pass over the same route throughout, but which partly or wholly cover the different routes, then the two next foregoing clauses of this section shall be so construed as to apply to each division, branch or route of such line as if the same were operated as a distinct and separate line, corporation or association.

The provisions in said two preceding clauses fixing the maximum intervals of time allowed between the running of the cars shall not be so construed as being violated in any case where the same cannot be complied with by reason of circumstances beyond the control of those upon whom such duty is imposed.

Fourth: The time schedule or maximum intervals provided for in clauses first and second of this section may be amended and altered by the street car companies or associations operating the cars as occasional exigencies or the public convenience may, from time to time, require; provided, however, that no such contemplated amendment or alteration can be made

or become effective unless and until on written application submitted to the Mayor and President of the Council, and, if there be one, to the Street Railway Supervisor, such proposed amendment or alteration shall have received the sanction and approval of at least two of said officials, to be evidenced by their endorsement thereon, and said document shall have been filed with the Register; and in every case of amendment or alteration a new and complete time schedule of the operation of the cars shall be filed with the Register. Any permit for a change in the time schedule or maximum intervals between cars may be revoked by the Mayor and President of the Council and the Street Railway Supervisor, if there be one, or by any two of said officials, and upon such revocation of such permit or sanction the time schedule or maximum intervals between cars herein provided shall thereupon again become effective in lieu of those for which the sanction or permit has been revoked.

Fifth: Ninety days from and after the time of approval of this ordinance shall be allowed all persons, corporations or associations affected by the foregoing three clauses to comply with the provisions thereof. (Ord. 21113, sec. 1760b.)

By clause sixth in ord. 21113, sec. 1760b, the provisions of special ordinances, so far as they may be inconsistent with the time schedule fixed in ord. 21113, are specifically repealed, such special ordinances being numbered 19429, 19393, 19392, 19352, 18231, 18049, 18048, 18047, 17693, 17375, 17185, 17047, 17021, 17010, 17009, 17008, 16641, 16640, 16068, 15954, 15606, 15605, 15547, 15164, 15038, 15023, 14837, 14485, 14484, 13282, 12976, 12888, 12713, 12513, 11692, 11580, 11528, 11321, 11237, 10824, 8982, 8701, 6023, 5735, 5427, and 5309; and sec. 1780 and 1781 of M. C. are repealed also.

As to the right of the city to fix such time schedule, see Charter, Art. X, sec. 1, conferring power concerning "all questions arising with reference to street railroads, whether such questions involve construction, granting right of way or regulating and controlling them after their completion," etc.; and *ib.*, sec. 2, conferring power "to regulate the time and manner of running cars," etc. (same as by statute conferred on cities of the first class: R. S. 1899, secs. 5439-5440). And Chart., Art. III, sec. 26, clause 11, giving power to grant right to construct railways "subject to the right to amend, alter or repeal any such grant in whole or in part, and to regulate and control the same, as to their fares, hours and frequency of trips," etc.

In *State ex rel. vs. Corrigan Street Ry.*, 85 Mo. 263, 282, in denying the right of the city by subsequent ordinance to increase contractual burdens imposed in the franchise, the court also suggested that a provision in such subsequent ordinance that "Cars on such regular lines shall be run at intervals not exceeding five minutes" was a "proper exercise of the police power."

Sec. 1868. Violation of speed or time schedule or other regulation made misdemeanor—preparation or promulgation of schedule or order, etc.—penalty.—Every person or corporation which may do any act in violation of any of the provisions of sections 1864, 1865, 1866 or 1867, or of any section relating to the regulation or operation of street cars where no different provision is made for a violation thereof, and every president, superintendent, manager or other officer of any corporation or association who in any way aids or participates in the preparation of any schedule or order, or the promulgation thereof to any employe, the terms of which contemplate and result in a violation of any of the provisions of sections 1865, 1866, or of any other section of this article where no different provision is made for a violation thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five dollars nor more than five hundred dollars for each and every offense; every day during which any unlawful order or schedule remains unrevoked shall be considered a separate offense. (Ord. 21113, sec. 1760c.)

Sec. 1869. Each car to run over entire route—passengers not to be required to change cars—exceptions—how routes changed.—Except in case of unavoidable accident or when a car is about to turn in according to a schedule at a car shed, or where extra cars are required to run temporarily under exceptional circumstances to a particular point for the accommodation of the public and are plainly placarded to that effect, every street car company or association operating, managing, controlling or running any line of cars, shall be required to run each of its cars that may be carrying one or more passengers, to the end of the entire route, and shall not require any passenger to alight from any one of its cars and take a preceding or succeeding car traveling over the same route in order to continue to his or her destination.

This section shall not be construed to prohibit the reasonable transfer of passengers from one line to another line, or from one division to another, at any reasonable point from which said lines or divisions do not continue on the same route; but no such company or association shall under any existing charter or franchise establish any new route or routes which require the transfer of passengers to another car in order to reach any point accessible without a transfer on August twenty-eighth, nineteen hundred and two, and all routes as then operated shall so continue to be operated without abridgement. Provided, that in case of emergency, such as the blocking of the tracks caused by conflagrations or under similar exigencies, the cars may in order to accommodate public convenience, temporarily be run over other tracks until the regular route can again be covered; and provided further, that such companies or associations may make all lawful changes in the routes when public convenience requires, on condition that the proposed changes first receive the written approval and sanction of the Mayor, President of the Council, and Street Railway Supervisor, if there be one, or any two of the said officials, and said written approval has been filed with the Register. And provided further, that said written approval may at any time be revoked by any two of the officials above named, and upon such revocation of such approval or sanction, as aforesaid, the route originally existing before such sanction or permit shall forthwith be re-established, subject to the provisions of this article. (Ord. 21113, sec. 1760d.)

See this section construed in *Dryden vs. Transit Co.*, 120 Mo. App. 424, 427, 429, holding in effect that it is an "unavoidable accident" when the car is behind time resulting from a jammed switch, and that to divert the car from its regular route and make a loop, so as to give it the usual space ahead of the following car, is not a violation of the ordinance.

Sec. 1870. Regulations for receiving and discharging passengers—when and where cars must be stopped—slow down at crossings when meeting other cars—ring gong—red light.—The following rules and regulations concerning the running of street railway cars shall be binding upon every company, co-partnership and corporation operating or running street cars in the City of St. Louis, and also upon their employees:

First: Street cars shall be stopped for taking or discharging passengers as follows: Those going southward shall stop on the south side of the intersecting streets; those going northward shall stop on the north side of the intersecting streets; those going eastward shall stop on the east side of the intersecting streets; those going westward shall stop on the west side of the intersecting streets.

Second: It shall be the duty of every driver, motorman, gripman, or other servant running any car to bring his car to a full stop at the corner

of the streets as herein provided, whenever requested, signaled or motioned by any person standing on such appropriate corner desiring to board such car, or by the conductor of such cars, or whenever so requested, signaled or ordered by the conductor or any passenger on such car desiring to leave such car, and in every instance such car shall remain stationary for a sufficient length of time to enable passengers safely to board or leave the car; provided, that a car in which there are no unoccupied seats need not stop to receive passengers when such passengers may board a succeeding car which is at the time within three hundred feet of the first car and bound over the same route throughout.

Third: Whenever any car is about to pass another car going in the opposite direction, at a point where it is permissible to passengers to alight from or to board a car, said car shall proceed at a rate of speed not over three miles an hour, and the motorman, driver, or person in control shall ring a warning gong or bell. All cars running on a route any portion of which is not lighted by street lamps shall carry on the rear end car a red lantern containing a coal oil light. (Ord. 21113, sec. 1761.)

While street car companies may make rules respecting the stopping of cars, yet such rules must not be inconsistent with the city ordinances; hence a rule that cars need not stop to take on passengers when the cars are eight minutes or more behind time is of no effect in law, as it is contrary to the ordinance provision: *Maguire vs. Transit Co.*, 103 Mo. App. 459, 472.

And a company sued by its own servant cannot set up the defense that the latter obeyed the company's rules instead of a speed ordinance: *Moore vs. Transit Co.*, 193 Mo. 411, 420. A street car company is liable for negligence, where by its custom it stops to discharge passengers at the point where plaintiff is injured by a premature starting, although such point is not one where the ordinance requires it to stop: *Gilroy vs. Transit Co.*, 117 Mo. App. 663, 668.

Sec. 1871. Penalty for violating last section.—Any driver, conductor, motorman, gripman or other servant of any street car company, copartnership or corporation who shall violate any of the provisions of the next preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five dollars, nor more than one hundred dollars, or be imprisoned in the city jail not less than one, nor more than thirty days, or by both such fine and imprisonment, for each and every offense. (M. C., sec. 1762.)

Perhaps only so much of the penalty as provides for a fine (and in case of failure to pay same, to be worked out at the work-house, as in case of other fines), is authorized by the Charter, if the section contemplates imprisonment even if there be no default in paying a fine: Charter, Art. III, sec. 26, clause 10.

Sec. 1872. Printed copy of ordinance to be posted in each car.—Any company, copartnership or corporation operating or running street cars in the City of St. Louis, whether propelled or drawn by horses, mules, cable or electricity, shall be required to expose to plain view to each passenger entering their cars inside of each of their cars, a printed copy of sections 1870 and 1871. Any violation of the provisions of this section shall be deemed a misdemeanor, and on conviction thereof the said company, copartnership or corporation shall be fined not less than five dollars, or not more than one hundred dollars for each and every offense. The non-compliance with the provisions of this section shall for each day and for each car, when and where such violation exists, constitute a separate offense. (M. C., sec. 1763.)

Sec. 1873. Fenders to be provided—approval of.—All persons, associations or corporations now or hereafter owning or operating street railways in the City of St. Louis, either by cable or electricity, shall pro-

vide all of their grip or motor cars now or hereafter in use, with fenders projecting beyond the front platforms of such cars, and designed to catch and sustain any human being who may be in the way of such car, and also provide and equip all their street cars with front and rear wheel guards; such fenders and wheel guards shall be of a design which the board of public improvements shall have certified in writing meets the approval of such board. All such cars shall be equipped with such fenders and wheel guards by September first, eighteen hundred ninety-five, and such fenders and guards shall be placed on all street cars in use thereafter. (M. C., sec. 1764.)

In the absence of a statute or ordinance there is no duty requiring the use of fenders, and their absence is not negligence, at least not *per se*: Hogan vs. Ry., 150 Mo. 36, 48.

Sec. 1874. Same—revocation of certificate of approval—time for furnishing new fender plans—penalty for operating thereafter without new fender—use of broken or ineffective fenders misdemeanor, etc.—It shall be the duty of the Board of Public Improvements to examine and pass upon all designs for fenders and guards submitted to such board by any street railway company, and to give a written certificate to such company of the approval or disapproval of such designs by said board. If at any time the board shall, upon investigation, determine that a fender or guard which it has previously approved is ineffective or unsuitable as a life-saving device, it may cancel and revoke the certificate of approval theretofore issued by it. Upon such cancellation or revocation the board shall cause to be served a notice thereof upon the president or other chief officer of the company using such fender or guard, or in the event of the absence of the president or other chief officer from the office of the company, then upon some person employed by the company and in charge of its business office, and sixty days after the service of such notice upon such company shall be allowed said company within which to provide new fenders or guards meeting the approval of the board; and any company using a fender or guard after the lapse of sixty days from the service of such notice of cancellation or revocation of its approval as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction in a police court of the City of St. Louis, shall be fined not less than one hundred dollars nor more than five hundred dollars for each and every offense, and every day's violation of this provision shall constitute a separate offense. If any company shall use on any of its cars any fender or guard which has become broken, dilapidated or ineffective by reason of lack of repair for more than one round trip, although such fender or guard may be of a pattern or design approved by the Board of Public Improvements, such company shall be deemed guilty of a misdemeanor and upon conviction thereof shall be liable to the same penalties provided above. (Ord. 20540, amending M. C., sec. 1765.)

Sec. 1875. Penalty for operating cars without fenders.—Any person, corporation or employe, operating any street car in the City of St. Louis, after October first, eighteen hundred ninety-five, not equipped with fenders and guards as hereinbefore provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof in the police court of the City of St. Louis, shall be fined not less than one hundred dollars for each and every offense, and every day's violation thereof shall constitute a separate offense. (M. C., sec. 1766.)

Sec. 1876. Getting on fenders, forbidden, except.—Any person who, when not in danger of injury, shall get upon such fender attached to

any car, as hereinbefore provided, whether such car be standing still or in motion, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars. (M. C., sec. 1767.)

Sec. 1877. Brakes to be provided—how approved—certificate of approval—penalty for operation of motor cars without brakes.—All persons, associations or corporations now or hereafter owning or operating street railways in the City of Saint Louis, shall provide all their motor cars, now or hereafter in use, with brakes to stop the cars, of a design which the Board of Public Improvements shall have certified in writing meets the approval of the board. It shall be the duty of said board to examine and pass upon all designs for brakes submitted to it by any street railway company, and to give a written certificate to such company of the approval or disapproval of such design by said board. After the approval by said board of a particular kind of brake, there shall be allowed to such person or corporation operating such cars, the space of sixty days to equip the cars with the kind of brakes so approved; after which time any person, corporation or employee operating any street car, contrary to the provisions hereof, shall be deemed guilty of a misdemeanor and upon conviction thereof in the Police Court of the City of Saint Louis, shall be fined not less than one hundred dollars, nor more than five hundred dollars, for each and every offense, and every day's violation of this provision shall constitute a separate offense. The said board shall approve only of such designs of brakes that are more effective in quick stopping of cars, and conducive to the greatest safety to the public. (Ord. 20653, sec. 1.)

Sec. 1878. Revocation of approval—notice—new brakes thereafter—penalty for using disapproved brake.—If at any time the said board shall upon investigation determine that a brake, which it has previously approved, is ineffective or unsuitable as a device for the quick stopping of cars, it may cancel and revoke the certificate of approval theretofore issued by it. Upon such cancellation or revocation, the board shall cause to be served a notice thereof upon the president or other chief officer of the company using such brake, or in the event of the absence of the president or other chief officer from the office of the company, then upon some person employed by the company and in charge of its business office, and sixty days, after the service of such notice upon such company, shall be allowed said company within which to provide new brakes, meeting the approval of the board; and any company or person using a disapproved brake after the lapse of sixty days from the service of notice of cancellation of its approval, as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction in a Police Court shall be fined not less than one hundred dollars nor more than five hundred dollars for each and every offense, and every day's violation of this provision shall constitute a separate offense. (*Ib.*, sec. 2.)

If any company shall use on any of its cars any brake which has become broken, dilapidated or ineffective by reason of lack of repair for more than one round trip, although such brake may be of a pattern or design approved by the Board of Public Improvements, such company shall be deemed guilty of a misdemeanor and upon conviction thereof shall be liable to the penalties above provided. (*Ib.*, sec. 3.)

Sec. 1879. Rails—gauge, shape or width.—All street railroads shall be constructed and reconstructed with tracks of iron or steel rails, the head or tread flanges of which shall be laid and maintained on the grade of

the streets as near as practicable, through which the line of rail forming a track passes. The grade of the street shall be determined by the street commissioner. The inner sides or edges of the head or tread flange of the rails forming a track at the point where they join the lower flange shall be four feet ten inches apart and no more. The rails shall be five inches in width. The lower flange of the rail shall be in the inside of the head or tread flange, and shall be level or within one-sixteenth of an inch of level on the upper surface and extend not less than two and one-half inches from the inside of the head or tread flange so as to accommodate ordinary vehicles of four feet and ten inches outside gauge. The head or tread flange of the rails shall have a surface of not less than two inches wide and not more than one and one-tenth of an inch above the lower flange measured from the top of the head or tread flange. Each rail shall be made so that the inside of the head or tread flange and the upper surface of the lower flange shall form an obtuse angle of ninety-five degrees. No rail shall have any flange, rib or other contrivance outside of the head or tread flange that would prevent the paving of the street up to and level with the surface head or tread of the rail; provided, however, that there may be a groove of not more than one-half of one inch in depth and one-half of one inch in width at the junction of the inside flange with the head or tread flange. The board of public improvements may approve for use a pattern of rail, of which the flat portion of the inner flange shall be on a level with the head or tread flange; the head or tread flange and the level part of the inner flange being separated by a groove or channel for the wheel flanges. All curves when laid shall be of the "U" or gutter pattern, or such other improved pattern as may be approved by the board of public improvements. (M. C., sec. 1768.)

See Charter, Art. X, sec. 4.

Sec. 1880. Penalty.—Any failure, refusal or neglect of any street railroad company or corporation or any officer thereof to comply with the provisions of section 1879, shall be deemed a misdemeanor, and upon conviction of said company, or corporation or officer thereof, he or it shall be fined not less than fifty dollars nor more than five hundred dollars for each and every rail so laid by said company not in compliance with the provisions of this and the next preceding section. (M. C., sec. 1869.)

Sec. 1881. Tracks—how constructed and reconstructed—penalty.—Whenever, by authority of an ordinance of the city, the carriageway of any street upon which one or more railway tracks are laid, is to be constructed or reconstructed, the street commissioner shall notify the railroad company whose track is laid on such street, to construct or reconstruct in like manner, and with the same kind of material as specified in said ordinance, the space between the rails and the space between the tracks where there is a double track or more, and twelve inches outside of each rail; provided, however, that a better material may be used between the rail, if approved by the street commissioner, and said work shall be executed and completed as rapidly as the street improvement is executed and completed. A failure to observe this section shall, as to each block or part of block of the street improved, constitute a separate offense, and the person, corporation, company, copartnership, or president, superintendent or manager thereof offending, shall, on conviction, be deemed guilty of a misdemeanor, and be fined not less than five dollars nor more than five hundred dollars for each offense. (M. C., sec. 1770.)

Sec. 1882. Streets—between rails and tracks to be kept in repair.—All street railroad companies shall keep in repair the space be-

tween the rails and the space between the tracks where there is a double track or more and twelve inches outside of each outside rail. Said repairs shall be made and maintained with such material as the street is paved with; provided, however, that a better material may be used with the approval or by the direction of the street commissioner. Every failure to observe this section shall constitute an offense, and the corporation, company, or the president, superintendent or manager thereof, offending, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine of not less than five dollars nor more than five hundred dollars for each offense. Each day a given location remains unrepaired after the expiration of twenty-four hours from the time a written or printed notice to repair the same is issued by the street commissioner and is delivered at the office of the company in the city, shall constitute a separate offense. (M. C., sec. 1771.)

See Charter, Art. X, sec. 5, and note thereto.

An obligation to repair only, does not require the company to reconstruct: *State ex rel. vs. Corrigan Street Ry.*, 85 Mo. 263; or to pave: *Kansas City vs. Corrigan Ry.*, 86 Mo. 67. See also as to when companies are, or not, exempt from repair of tracks, etc., *St. Louis vs. Mo. Ry.*, 13 Mo. App. 524; *St. Louis vs. Mo. Ry.*, 87 Mo. 151. As to authority to pass such ordinances generally, see *Springfield vs. Ry.*, 69 Mo. App. 514.

Sec. 1883. Penalty.—Any person, corporation, company or copartnership, or the president, superintendent or manager thereof, violating or failing to comply with any of the foregoing provisions of this article, except as otherwise provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than five hundred dollars. (M. C., sec. 1772.)

Sec. 1884. Railway companies—liability of—city not liable.—The City of St. Louis shall not be held liable to any railway company or individuals for any damage resulting from the breaking of any sewer, or any water or gas pipes, or from any delay in the transportation of persons that may be caused thereby, or from delays or damages caused by fire or otherwise; but any such railway company or individuals shall be liable for any loss or injury that any person may sustain by reason of any carelessness, neglect or misconduct of their servants or agents in the management, construction or use of their track or cars. (M. C., sec. 1773.)

Sec. 1885. Fire department—not to be interfered with.—No privilege or authority hereby granted shall be so construed as in any manner to interfere with the operation of the fire department of the city; but in all instances in cases of fire, the use of the streets where railroad tracks are laid shall be subservient to the necessities of the fire department. (M. C., sec. 1774.)

See R. C., sec. 1864, clause 11.

Sec. 1886. Vehicles—when entitled to use of track.—Vehicles driving in the direction of the cars upon any street railway shall be entitled to the track used by the cars running in that direction. (M. C., sec. 1775.)

Sec. 1887. Vehicles—when not entitled to use of track.—No vehicle driving in a contrary direction shall use such track except for the purpose of crossing or avoiding other vehicles that may be in the way; and any driver violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof be fined not less than five dollars. (M. C., sec. 1776.)

Sec. 1888. Cars—entitled to preference on tracks.—Nothing contained in the next preceding two sections shall be construed as in any manner interfering with the rights of passenger cars upon such track, or as entitling any vehicle to any track in preference to any such car, without regard to the direction. (M. C., sec. 1777.)

As to the respective rights of street cars and other vehicles, see *Oates vs. Street Ry.*, 168 Mo. 535, 544, *et seq.*; *Latson vs. Transit Co.*, 192 Mo. 449, 457 and cases cited; *Winters vs. Ry.*, 99 Mo. 509; *Moore vs. Rapid Transit*, 126 Mo. 265; *Conrad Grocer Co. vs. St. L. & M. R. Ry.*, 89 Mo. App. 391; *Klockenbrink vs. Ry.*, 172 Mo. 678; *Linder vs. Transit Co.*, 103 Mo. App. 574; *Degel vs. Transit Co.*, 101 Mo. App. 56. (As to paramount right of Health Department ambulances, see ord. 23068, enacted after the R. C.)

Sec. 1889. Periodical reports from street railways—what to contain—penalty for failure.—It shall be the duty of each and all of the street railroad companies in the City of St. Louis to report, under oath, to the City Register, between the first and fifteenth days of the months of April, July, October and January of each year, by their president, secretary or superintendent, the number of trips made, the distance in miles traversed thereby, the number of passengers carried over the road of which the person making the report is an officer, the number of cars operated, and the number of revenue or pay passengers carried on each car respectively, during the preceding three months ending on the last day of the months of March, June, September and December; and any street railway company failing to make the report required by this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than five hundred dollars, and every day that the said report remains delinquent shall be considered a separate offense. (Ord. 21113, sec. 1778.)

Provisions of this kind are authorized under the Charter: *St. Louis vs. Railway*, 89 Mo. 44, affirming l. c. 14 Mo. App. 221.

Sec. 1890. Streets and approaches to be kept clean—penalty for failure.—All street railroad companies in St. Louis shall keep free from mud, snow and dust the approaches to their cars in use at the termini of their lines, whether main lines or extensions, and at the stables and power houses of the companies, and all other places where the cars stop, otherwise than momentarily to receive or discharge passengers, and shall maintain clean and proper footways between the cars of the main line and the extension where passengers are transferred; and shall keep the streets occupied by them between the rails and between the track where there is a double track or more, and for a space of twelve inches outside of each rail, in clean condition by the removal of all snow, dust, dirt, mud, offal, therefrom. The snow, dust, dirt, mud and offal shall be hauled away by the railroad companies and shall not be deposited on the streets. Every day upon which any company fails to comply with this section shall constitute a separate offense, and the corporation, company, or the president, superintendent or manager thereof, offending, shall, on conviction, be deemed guilty of a misdemeanor, and be fined not less than five dollars nor more than five hundred dollars for each offense. (M. C., sec. 1779.)

Sec. 1891. Motive power—improved, may be used.—The street railroad companies in the city are hereby authorized and empowered to use any improved motive power or motor for the traction or propelling of cars over their respective lines, such permission to be subject to such restrictions and conditions as may be imposed by ordinances of the city, and subject to revocation by ordinance. (M. C., sec. 1782.)

Sec. 1892. **Preceding section—limitation of operation.**—Section 1891 shall have force and effect only upon and as to such street railroads and street railroad companies as may file with the City Register a written acceptance of sections 1891, 1892 and 1893, as an amendment to their respective charters. (M. C., sec. 1783.)

Sec. 1893. **Fare not to be increased—freight traffic, etc., prohibited.**—Nothing contained in this article shall be construed to authorize an increase of the rate of fare as now established, nor to allow the transportation of freight over street railroads, nor to allow the use of the ordinary dummy or box car, engine, or locomotives of the kind now used upon steam railroads in this state. (M. C., sec. 1784.)

Right to regulate fare: See Art. III, sec. 26, clause 11; *ib.*, Art. X, sec. 2. See as to power of city to cut down fares under charter conferring less authority on the city: *Detroit vs. Detroit Citizens Ry.*, 184 U. S. 368; *San Antonio vs. Altgelt*, 200 U. S. 304, 308; *Cleveland vs. Electric Ry.*, 201 U. S. 529; *Cleveland vs. Electric Ry.*, 193 U. S. 517.

Sec. 1894. **Tracks—when may be used by other than operating company.**—Any street railroad company which is or may be hereafter authorized by ordinance of the city to operate a line of street railroad cars, along, across or upon any street or streets of said city, along, across or upon which street or streets any other street railroad company then owns a street railroad, said first-mentioned company may operate and run its cars over the track of said other company across, along and upon such streets as it may by ordinance aforesaid be authorized to run and operate its road, upon the payment of just compensation, to be ascertained under the rules and regulations hereinafter prescribed. (M. C., sec. 1785.)

Charter, Art. X, sec. 6, and note thereto.

Sec. 1895. **Procedure to determine rate of compensation.**—When any street railroad company shall desire to operate a line of street cars over the track of any other street railroad company, or part thereof, as provided in section 1894 of this article, [and] an agreement cannot be had between such companies as to the compensation to be paid therefore by the company so desiring, said compensation shall be ascertained by a commission of three disinterested freeholders of the city, to be chosen and appointed in the following manner, to-wit: The company desiring to use said track may make written application to that effect to the mayor of said city, accompanied by plans and specifications showing the extent of track it desires to use, first giving ten days' notice in writing to the railroad company whose track it is designed to use, of the time and purport of such application. On receipt of the same, with evidence of notice aforesaid, the mayor shall forthwith give notice to each of said companies to report to him in writing within ten days thereafter, the name and address of one disinterested freeholder of the city, to act as its chosen commissioner. Upon the expiration of the ten days aforesaid, the mayor shall forthwith appoint a third disinterested freeholder of the city to act as commissioner, and shall also appoint one such freeholder to represent either of such companies which shall have refused or neglected to appoint a commissioner within the time aforesaid. Thereupon the mayor shall forthwith give notice to the commissioners so appointed of their appointment, and shall turn over to them all papers in his possession, relating to the matter in controversy, and in case of vacancy in such board of commissioners, caused by death or refusal to serve of any of said commissioners, or for any other cause whatever, the mayor shall appoint a commissioner to fill such vacancy. All the commis-

sioners provided for under the provisions of this section shall be freeholders, residents of the city, and shall not be interested in any manner as stockholders, bondholders, lienholders, or officers or employees of either of the street railway companies in question. When appointed, said commissioners shall proceed to determine the compensation to be paid and the time and manner of its payment; provided, that in case one or more street railroad companies shall thereafter be authorized to operate, and do cause to be operated, a line of street railroad cars upon said track, the compensation paid by the company or companies already occupying said track may, upon application of either of said companies to the mayor, be revised and readjusted by a commission of three disinterested freeholders, chosen and appointed in the manner herein prescribed. And either party may apply for a readjustment of the terms of compensation once in each period of two years, to be determined as herein prescribed. (M. C., sec. 1786.)

See note to sec. 6 of Art. X of Charter.

These and the following ordinance sections on the same subject are construed and upheld in the following cases: Grand Ave. Ry. vs. Lindell Ry., 148 Mo. 637; Grand Ave. Ry. vs. Citizens Ry., 148 Mo. 665; Union Dep. Ry. Co. vs. Southern El. Ry., 105 Mo. 562; Railway Co. vs. Railway Co., 132 Mo. 34. These cases are more fully set out in the said note to sec. 6 of Art. X of the Charter.

Sec. 1896. Qualification of commissioners—proceedings—powers and duties—report—compensation.—The said commissioners, before proceeding to hear any testimony, shall take and subscribe an oath before some officer duly authorized to administer an oath, that they possess all the qualifications required in the next preceding section, and that they will faithfully and fairly hear and examine the matter in controversy, and make a just award to the best of their understanding, which oath shall be filed and returned with the award. They shall meet together and view the track or parts of track proposed to be used by the company making the application, and shall hear testimony of witnesses, and the proofs and allegations of the parties to the proceedings, as to the value of said tracks and as to the compensation to be paid to the company whose track is to be used, and such damages as the commissioners may deem just, and upon the close of the testimony shall, without unnecessary delay, make a report in writing of their decision and award, which report shall be signed by them or a majority of them, and addressed and delivered to the mayor forthwith upon its completion; such commissioners shall be entitled to ten dollars each per day for their expenses and services for the first ten days they are actually engaged in performing their duties, and one dollar for each succeeding day actually employed thereafter, to be paid by the company making the application. (M. C., sec. 1787.)

Sec. 1897. Procedure on report of commissioners—bond—payment of indemnity.—On the reception of said report of the commissioners by the mayor, he shall file the same, together with the original application and all papers pertaining to the proceedings, with the city register, and shall immediately notify the parties of the decision of the commissioners, and of the filing of their report, and thereupon, and on payment by the company making the application of the amount of the compensation awarded in said report, or after paying the same into the circuit court for the company whose track it is proposed to use, and upon payment of the costs and expenses of the commissioners, and upon filing with the city register a bond in the sum of twenty thousand dollars, with two good and sufficient securities, owners of unincumbered real estate in the city, which bond shall

be approved by the mayor and council; said bond shall be conditioned for the payments to the company whose track or tracks are to be used, of such additional compensations as may be ordered to be paid by the circuit court on any proceeding therein as provided in section 1898; the first named company shall be entitled without further delay to enter upon and run its cars over the track or part or parts of the track mentioned and described in the report of such commissioners. (M. C., sec. 1788.)

Sec. 1898. Appeal—provision for and procedure.—Upon the filing of such report of said commissioners, the register shall duly notify both parties to the controversy of the filing thereof, and either party to such controversy may, at any time within ten days after the service of such notice as aforesaid, appeal to the circuit court of the City of St. Louis for a review of the report of said commissioners, by filing with the clerk of said court written exceptions to said report, and serving a copy of said exception upon the opposite party, together with notice of the time of filing the same, and the court may thereupon make such order therein as right and justice may require, and may order a new appraisement in the manner hereinbefore prescribed, upon good cause shown; but notwithstanding such appeal, the company may operate its cars over such track or parts of the track as the report of the commissioners may designate, and any subsequent proceedings shall affect only the amount of compensation to be paid and the manner and time of payment. (M. C., sec. 1789.)

See cases cited, *supra*, in note to Rev. Code, sec. 1895.

Sec. 1899. Use of tracks—limitations upon.—The company using the track, or part or parts of the track of another company, under the provisions of this and the five next foregoing sections, shall run its cars while on said track at the same rate of speed as the cars of the company owning said track, and shall construct and keep its connections with the track of the company so as not to delay or interfere with the cars of the company owning the track. Any company using the track of another company, in whole or in part, shall charge no more than one passage over its whole line. (M. C., sec. 1790.)

Sec. 1900. Surrender of franchise—how and when—irrevocability.—Any street railway company unable or indisposed to carry forward its business may notify the Mayor of such indisposition, and surrender thereby all of its chartered rights or franchises; but such company desiring so to do, shall first give not less than sixty days' notice in writing to the Mayor of such intention and intended action, and, after giving said notice the surrender contemplated or referred to therein shall not be revoked or withdrawn except by permission of the Mayor given before the expiration of the time limited in said notice for said surrender to take place and no such company shall be authorized to surrender a part only of its chartered rights or franchises and retain the remainder, unless sanctioned by ordinance duly enacted as required by law. (Ord. 21113, sec. 1790-a.)

See Charter X, sec. 3, authorizing this section. As to non-user as ground for forfeiture, and proper procedure in such case, see *State ex. rel. vs. Railway*, 140 Mo. 539, and additional authorities cited in note to Charter, Art. X, sections 1, 7.

Sec. 1901. Street railways to sprinkle tracks.—In order to promote and preserve the public health, and as a police regulation, all street railway companies or persons or corporations owning or operating street railway cars upon the streets, avenues, highways or public places of this

city shall, from and after ninety days after the approval of this ordinance, for the purpose of laying the dust which may be created by the movement of said cars, sprinkle with water such portions of the streets, avenues, highways or other public places occupied by them with their tracks and the space or the spaces between such tracks. Said sprinkling shall be done between the hours of 6 o'clock in the morning and 9 o'clock in the evening of each and every day of the year, except on such days or parts of days as the dust shall be laid by dampness, rain, snow or other natural causes, and except on such days when the weather shall be so cold that sprinkling would be impracticable by reason of the freezing of the water. (Ord. 20401, sec. 1.)

Sec. 1902. Same—what device to be used—B. P. I. to approve same.—The sprinkling above provided for shall be done by means of an apparatus or device placed upon railway trucks and so constructed as to be run and operated over the tracks of such railway company, person or corporation as may own the same or operate cars thereon, and said sprinkling shall be done by such companies, persons, or corporations at their own expense. The device or apparatus and the design and plan of such sprinkling car shall be first submitted to the Board of Public Improvements for its approval before any such sprinkling car, apparatus or device is put into operation. (*Ib.*, secs. 2 and 3.)

Sec. 1903. Same—penalty for failure to sprinkle.—Any person, persons, firm, company or corporation failing to comply with the foregoing two sections shall be fined not less than ten dollars nor more than five hundred dollars for each offense, and each day's failure to sprinkle as is herein required shall constitute an additional and separate offense under this ordinance. (*Ib.*, sec. 4.)

CHAPTER 24.

PUBLIC IMPROVEMENTS, DEPARTMENT OF.

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| ART. | I. Of board of public improvements. |
| | II. Of president of board of public improvements. |
| | III. Of street commissioner. |
| | IV. Of sewer commissioner. |
| | V. Of water commissioner. |
| | VI. Of harbor and wharf commissioner. |
| | VII. Of park commissioner. |
| | VIII. Of regulations concerning the advertising of public improvements and the awarding of contracts |
| | IX. Of salaries and bonds of members of the board of public improvements and their employees. |

ARTICLE I.

OF BOARD OF PUBLIC IMPROVEMENTS.*

Sec. 1904. Regular meetings.—The board of public improvements, as constituted by the charter, shall meet at least once in each week at its office, on such day and hour as it may determine, to consider and take under advisement such business as may come before it. (M. C., sec. 1791.)

See Charter, Art. IV, sec. 33 and notes.

*See Charter, Art. IV, secs. 33-42, and Art. VI, and annotations.

Sec. 1905. Special meetings may be called by president.

—The president may at any time call special meetings of the board by written notice delivered to or left at the office of each commissioner not less than twenty-four hours before the time of such meeting; such notice shall specify the business for the consideration or transaction of which the meeting is called. (M. C., sec. 1792.)

Sec. 1906. When special meetings may be called by secretary.

—Any two or more commissioners may request the president to call a special meeting of the board, and in the event of his refusal or neglect to do so, when so requested, the secretary of the board, upon a request addressed to him and signed by any two or more commissioners, shall call such meeting, provided that each member of the board shall be notified of such meeting in the manner specified in the last preceding section. (M. C., 1793.)

Sec. 1907. Special meeting in case of inability of president.—In case of sickness, absence from the city or other inability to act of the president of the board, the secretary shall, as soon as the fact comes to his knowledge, call a special meeting of the board. (M. C., sec. 1794.)

Sec. 1908. Same—election of president pro tem.—powers.—

At such special meeting the commissioners shall elect one of their number president pro tem., who, when so elected, shall have full authority to act for and shall perform all the duties of the president during the continuance of his sickness, absence or inability to act, except the authentication of special tax bills. (M. C., sec. 1795.)

Sec. 1909. When subordinates to commissioners may act for principals.—In case of sickness, absence from the city or other inability to act of any one of the Commissioners composing the Board of Public Improvements, the following subordinates shall have authority to act for and fully represent them as chiefs of their respective departments, having first been officially notified to that effect by the President or President pro tem. of the Board, but such representative shall in no case have a vote in the Board or receive any additional compensation for the performance of any duty or service, viz.: For the Street Commissioner, the Assistant Street Commissioner; for the Water Commissioner, the Assistant Water Commissioner; for the Sewer Commissioner, the Assistant Sewer Commissioner; for the Harbor and Wharf Commissioner, the Assistant Harbor and Wharf Commissioner; for the Park Commissioner, the General Superintendent. (Ord. 22002, amending M. C., sec. 1796.)

See Art. IV, sec. 33 of Charter: *Construction Co. vs. Loevy*, 64 Mo. App. 430, 435, before the amendment of this section. (See this case in Sup. Ct., 179 Mo. 455, without discussion on this point.)

Sec. 1910. By-laws and regulations to be adopted, recorded and printed.—The board of public improvements shall make such by-laws and regulations of its order of business, and, its own government, not inconsistent with the city charter or ordinances, as it may deem expedient, which shall be duly entered of record and printed in pamphlet form. (M. C., sec. 1797.)

Sec. 1911. Secretary—salary and bond.—The president of the board of public improvements shall, with the approval of said board, appoint a secretary of said board, who shall receive a salary of twenty-five hundred dollars per annum, and shall file a bond in the sum of five thousand dollars. (M. C., sec. 1798.)

Sec. 1912. Duties of secretary.—The secretary of the board shall keep in suitable books a record of the proceedings of all meetings of said board, and the same shall be kept fully indexed; also a record of all their acts and orders, and shall cause to be safely and properly kept and filed all petitions, documents and papers belonging to the board, or that may be referred to it. He shall also prepare an abstract of the proceedings of the board, to be published in the papers doing the city printing and shall also have them printed in pamphlet form, from same type as in the newspapers, similar to the journal of the proceedings of the municipal assembly. (M. C., sec. 1799.)

The keeping of a record of its proceedings by the board is not expressly directed by the Charter, but it is necessarily implied by the importance of the functions exercised; such record is admissible to show the actions of the board, but the finding of fact by the board on a jurisdictional matter is not conclusive: *Bambrick Co. vs. Geist*, 37 Mo. App. 509 loc. cit. 515.

Sec. 1913. General duties of board of public improvements.

The duties of said Board shall be:

First—To furnish, through its President, to the Mayor, the Municipal Assembly, or either branch thereof, such data and information as may be required, or which it may from time to time deem necessary to impart.

Second—To prepare, consider and recommend to the Municipal Assembly all ordinances required for the establishment of the opening, location and graduation of streets, avenues, alleys, highways and public places, other than parks, and the construction of crosswalks; the establishment and opening of boulevards, or changing of existing streets into boulevards, fixing the width of such boulevards, the manner of laying out and improving the same, the regulation of traffic thereon, or the exclusion of heavy driving thereon or any kind of vehicle therefrom; the exclusion of any business house or the carrying on of any business vocation on any property fronting on such boulevard; the establishment of a building line to which all buildings, fences or other structures shall conform; also the grading, improving, constructing, reconstructing, maintaining, cleaning and sprinkling of such boulevard, and the planting of trees, shrubbery and other things of that nature and description thereon, and for the improving, constructing, reconstruction, repairing, cleaning, sprinkling and lighting of streets, avenues, highways, alleys and public places; for the construction, repairing and cleaning of public, district and joint district sewers, and for the establishment of sewer districts and joint sewer districts and the extension of the sewerage system of the city into the extended limits; for the laying of water pipes; the extension, repairs or reconstruction of the water works; for the improvement, protection, repairing and cleaning of the levees, wharf and harbor; for the improvement and maintenance of the public parks, and for the erection, extension and repairs of public buildings.

Third—To recommend to the Municipal Assembly ordinances establishing regulations for making connections with sewers, water, gas, heating, refrigerating or other pipes; and the stringing or installing of electric wires, conductors or apparatus, and their maintenance; also, the excavations for and the laying of all water, gas, heating, refrigerating or other pipes and conduits for electric wires or conductors and for the erection of poles for electric wires or conductors in the public streets and alleys; and for all excavations made by private parties in public highways.

Fourth—To advertise and let all public works ordered by the city, and to prescribe all needful rules and forms to govern such lettings and to make

contracts, agreements and specifications for the same, in such manner as may be required by ordinance and subject to the approval of the Council.

Fifth—To preserve and keep on exhibition in its office a general plan of the city as established by the Assembly, showing the location and graduation of streets and alleys as far as the same has been established by ordinance and to endorse, through its president, on all plats of new streets, alleys, highways or public grounds proposed to be dedicated, donated or granted to the public use which may be submitted to the Board that the same is in accordance with the general plan aforesaid, if the fact be so. (Ord. 20549, amending M. C., sec. 1800.)

Amended to conform to Charter amendments. See Charter IV, sec. 33.

Sec. 1914. Quorum—final action—absence—notice.—A majority of said board shall form a quorum for the transaction of business, but no final action shall be taken on any matter concerning the special department of any absent commissioner, unless this business has been made the special order of the day and previous written notice having been given to such commissioner. (M. C., sec. 1801.)

See Charter, Art. IV, sec. 33; *Construction Co. vs. Loevy*, 64 Mo. App. 430, 435.

Sec. 1915. When vote by yeas and nays required.—Upon all questions before the board of recommending ordinances to the municipal assembly, or of advertising and letting public work or of such that in any manner involves the expenditure of money by the city or of the approval of pay-rolls, the vote shall be taken by yeas and nays, which shall be duly recorded by the secretary in the proceedings. (M. C., sec. 1802.)

Sec. 1916. Members responsible for acts of employees.—Each member of the board of public improvements shall be held responsible for the acts of all the employes of his particular department. (M. C., sec. 1803.)

See Chart., Art. IV, sec. 34.

Sec. 1917. Plans of dedications—approval—what plans to contain, etc.—All plans of subdivisions, additions, of partitions, containing dedications of streets, avenues, boulevards or alleys, shall be submitted to the Board of Public Improvements, and after having been examined and approved by said Board, said subdivision, addition or partition shall be a part of the general plan for the location and graduation of the streets within the city, and the Board of Public Improvements, through the President thereof, shall endorse thereon that the same is in accordance with the general plan of the city; provided, however, that in all cases where any lands within the city are subdivided or laid out in blocks, lots or sub-lots, the map or plat thereof shall bear the certificate of a responsible surveyor to the effect that the streets thereon represented are correctly shown and located, and they shall be designated as streets, if they have been or are dedicated or opened according to law, or as proposed streets if such opening is incomplete. (Ord. 20549, amending M. C., sec. 1804.)

See Charter, Art. VI, sec. 1, and notes thereto. But approval of such a plat filed in pursuance of a statutory provision, as being in conformity with the general plan of the city, is not an acceptance, of a proposed dedicated street thereon, by the city as a street: *Downend vs. Kansas City*, 156 Mo. 60, 67.

Sec. 1918. Procedure and proceedings for proposed street or alley improvements—how conducted—remonstrances—preparation of ordinance by board—repair of streets.—The Board of Public

Improvements, of its own motion, may, and upon the petition of any reputable freeholder of property on any street, avenue, boulevard, alley or public highway shall, designate a day on which it will hold a public meeting to consider the improvement of any designated streets, avenues, boulevards, alleys or public highways, and shall give two weeks' public notice in the papers doing the city printing of the time, place and matter to be considered, stating in such notice the kind of material and manner of construction proposed to be used for the wearing surface of such improvement, naming in such notice more than one kind of material or manner of construction, if the board deems it advisable so to do, and also the class of specifications and plan for such work, which specification and plan shall be approved by said board and filed in its office. If within fifteen days after such public meeting the owners of a major part of the area of the land taxable for such improvement shall file in the office of the board their written remonstrance against the proposed improvement, or against the material or manner thereof, the board shall consider such remonstrance and if the board shall by a two-thirds vote at a regular meeting approve of the improvement, material or manner remonstrated against, they shall cause an ordinance for the same to be prepared and report[ed] the same with the reasons for their action and with the remonstrance, to the Municipal Assembly. If such majority fail to remonstrate within fifteen days after such public meeting, or shall petition the board for the improvement, the board may, by a majority vote, approve the same, and shall thereupon cause an ordinance to be prepared and reported to the assembly therefor. In all cases the board may include in such ordinance a provision that the work and material must be guaranteed and kept in repair by the contractor doing the work for a term of years to be specified in such ordinance. (Ord. 20549, amending M. C., sec. 1805.)

A contract guarantee to maintain a street in repair for five years means that the work is sufficiently good to last that length of time when the street is used for ordinary street purposes: *Asphalt Co. vs. St. Louis*, 188 Mo. 576; *Barbar Asp. Co. vs. Ulman*, 137 Mo. 543; *Bank vs. Woesten*, 147 Mo. 478; *Barber Asp. Co. vs. Hezel*, 155 Mo. 391; *St. L. Quarry Co. vs. Frost*, 90 Mo. App. 687. Such provision is authorized by Art. VI, secs. 14, 15 of Charter. See notes of cases to that section, on this subject; also as to remonstrances, etc.

Sec. 1919. Ordinances advised by board, to contain what—contracts for necessary work or repair.—All ordinances recommended by said board shall specify the character of the work, its extent, the material to be used, the manner and general regulations under which it shall be executed, and the fund out of which it shall be paid, and shall be indorsed with the estimate of the cost thereof said indorsement to be signed by the president of the board; provided that no improvement or repairs shall be ordered upon any future street, alley or highway, which shall not have been opened, dedicated or established and grades fixed according to the provisions of the charter and law; [and provided, further, that nothing in this article shall be so construed as to prevent the board of public improvements, through the president thereof, from annually letting and entering into contracts from the first day of July, of every year, for the grading, constructing, reconstructing and repairing of sidewalks and crosswalks, and repairing street, alley and gutter paving, and such other similar work which may be ordered by ordinance or may become necessary to be done during the year.] (M. C., sec. 1806.)

All ordinances for public work must originate with the B. P. I.: Charter, Art. VI, secs. 14, 15 and 17, and notes thereto; (see also Rev. C., sec. 1913). The proviso contained in the above section of the Rev. Code (in brackets) referring to letting of annual contracts, etc., is no longer in use, being without Charter authority since the amendments of 1901. In connection with this section see specially, sec. 15 of Art. VI of the Charter.

Sec. 1920. Ordinance to contain specific appropriation—estimate of cost to be indorsed—exceptions.—Every ordinance requiring work to be done shall contain a specific appropriation from the proper revenue fund for such part thereof as may be payable by the city, based upon an estimate of cost to be endorsed by the president of the board of public improvements in said ordinance for the whole of the cost of the proposed work. Provided, however, that when the work contemplated by such ordinance is of such magnitude that the total cost thereof would exceed the amount of money then in the city treasury and available for such purpose, the ordinance may provide for the whole work, and shall prescribe that it shall be contracted for and done in sections or parts, as the Municipal Assembly shall, from time to time, appropriate money to pay for the same. But in all such cases the work to be done in sections or parts shall be limited to the amount appropriated for the doing of such sections or parts, and in this manner the work specified shall ultimately be completed. (Ord. 20549, amending M. C., sec. 1807.)

See Charter VI, sec. 15, and as to specific appropriation, see Charter, Art. VI, sec. 28 and note; Art. V, sec. 10 et seq.

Sec. 1921. Conditions of contract for public work.—Every contract for public work shall contain a clause to the effect that it is subject to the provisions of the charter, that the aggregate payments shall be limited by the amount of the special appropriation, and that on ten days' notice the work under said contract may, without cost to or claim against the City of St. Louis, be suspended by the board of public improvements, with the approval of the mayor, for want of means or other substantial cause. (M. C., sec. 1808.)

As to certain conditions to be inserted in all contracts in which the city is a party, see R. C., sec. 270.

Ordinance 18960, approved April 7, 1897, provided that all ordinances and contracts for public work involving the use of dressed rock, granite or stone should stipulate that the work of dressing should be done in Missouri; this provision was held void in *St. Louis Quarry Co. vs. Von Versen*, 81 Mo. App. 519, and was omitted from the Mun. Code 1901, and was perhaps thereby regarded as repealed; and is disregarded by the municipal authorities; but its validity when embodied in the contract seems to be recognized in the later case in the Supreme Court of *Allen vs. Labsap*, 188 Mo. 692, 698. And so in *St. Louis Quarry Co. vs. Frost*, 90 Mo. App. 677, 689, it is held that a tax bill is not avoided by insertion of the requirements of that ordinance unless it is shown to have resulted in restricting the bidding so as to increase the price. See note to Charter, Art. VI, secs. 27 and 28.

Sec. 1922. Complaints against defective character of work being done—duty of board in such case.—Any citizen and taxpayer of the City of St. Louis may make complaint to the board of public improvements that any public work is being done contrary to contract, or that the work or material used is imperfect or different from what was stipulated to be furnished or done; and said board shall entertain and examine into such complaint, and may appoint two or more members of said board to examine and report on said work, and after such examination or after considering report of the commissioners so appointed, the board shall make such order in the premises as shall be just and reasonable and in accordance with what the public interest seems to demand, and such decision of the board shall be binding on all parties. (Ord. 20549, amending M. C., sec. 1809.)

Secs. 1922-1932 according to Charter, Art. VI, sec. 28 (last clause). See same and reference in note thereto.

Sec. 1923. Same—cost of examination.—The entire cost of making the examination, including the taking of testimony, when necessary, examining the work, testing the material and of replacing work disturbed in the examination shall be borne by the contractor if the complaint is decided to be well founded, or by the complainant if found to be groundless. (M. C., sec. 1810.)

Sec. 1924. Same—contents of complaint.—Such complaint shall be made in writing to the president of the board, shall give the full name, residence and business address of the complainant, and shall specify the work complained of and general nature of the complaint and of the evidence to be offered. (M. C., sec. 1811.)

Sec. 1925. Same—estimate of cost of consideration—deposit required.—Upon the receipt of any complaint the board of public improvements shall make an estimate of the cost which would arise from consideration of the complaint, including that of replacing work injured by the examination and the taking of testimony when necessary, and the complainant shall be required to deposit with the city treasurer the sum so estimated, which sum shall be a special fund, out of which shall be paid, upon the certificate of the president of the board, the cost incurred by consideration of the complaint and of replacing the work if the complaint shall be found groundless. Any residue of the special fund shall be returned to the complainant, or the whole sum if the complaint is well founded. If the complainant fails to make the required deposit within five days after notice of the amount required the complaint may be dismissed by the board. (M. C., sec. 1812.)

Sec. 1926. Time for consideration of complaint to be fixed—testimony—when commissioners to examine work.—When the deposit shall have been made the board at its next meeting shall consider, whether the complaint may be determined upon oral or documentary testimony only, in which case the board shall fix the day and hour for receiving such testimony and consideration of the complaint; but if the nature of the complaint is such as to require examination of work done or material furnished, the board shall appoint two or more of its members as commissioners to make examinations and tests and report the facts found to the board. When such commissioners make a report the board shall fix a day and hour for the consideration of the complaint. (M. C., sec. 1813.)

Sec. 1927. Service of notice of hearing.—Notice of the day and hour fixed for consideration of a complaint shall be served by mailing a notice and copy of complaint to the address given by the complainant and to the business or residence address of the contractor whose work is complained of, or by delivery in person. (M. C., sec. 1814.)

Sec. 1928. Contents of notice of hearing.—Said notice shall state the day, hour and place of hearing the complaint, and be signed by the secretary of the board, and the copy of complaint shall be attested by the secretary. (M. C., sec. 1815.)

Sec. 1929. Process for witnesses—deposit required.—The president of the board shall have full power and authority to issue all needful process for the attendance of witnesses and the production of papers, and subpoenas may be issued and served in like manner as provided in section 1700, provided that the party applying therefor shall deposit with the city

treasurer an amount equal to two dollars for each witness as a special fund to pay cost of service and attendance of witness. (M. C., sec. 1816.)

Sec. 1930. The hearing—testimony to be given under oath.—The board shall proceed with the hearing of the complaint on the day fixed as above provided. The complainant and contractor shall be entitled to be heard by himself or by counsel. All testimony of witnesses shall be given under oath, and the president or president pro tem. of the board is hereby authorized to administer such oath. (M. C., sec. 1817.)

Sec. 1931. The decision and vote on.—After full hearing the board shall render its decision as soon thereafter as practicable, which decision shall be concurred in by a majority of the members thereof present at the hearing. Said decision, with the names of the members voting for or against, shall be set out in the records of the board. (M. C., sec. 1818.)

Sec. 1932. Mayor to be given copy of record of decision.—Immediately upon the rendition of such final decision the president shall furnish the mayor with a copy of the records of the board relating to the complaint and of the final decision. (M. C., sec. 1819.)

Sec. 1933. Vaults and sign-posts—permission to erect may be given.—The board of public improvements may, when requested, grant permits for the construction of vaults under sidewalks, and for the erection of sign-posts, and lanterns, subject to such regulations and conditions for the same, as may be established by ordinance. (M. C., sec. 1820.)

Sec. 1934. Weighing scales—conditions of construction—It shall not be lawful for any person or persons to construct scales for the weighing of hay, coal or other articles upon any public street or highway, unless permission be granted by an ordinance passed by the Municipal Assembly, and to be erected under the control and to the satisfaction of the board of public improvements. (M. C., sec. 1821.)

ARTICLE II.

OF PRESIDENT OF BOARD OF PUBLIC IMPROVEMENTS.*

Sec. 1935. General duties.—The president of the board of public improvements shall preside at all meetings of the board, and shall see that a correct record is kept of its proceedings. He shall have charge of the erection, alteration and repairs of public buildings, of all public work for the abatement of nuisances, which may be ordered by the board of health, and of all other improvements not especially assigned to other members of the board of public improvements, except as otherwise provided by ordinance. (M. C., sec. 1822.)

Sec. 1936. Supervision over other departments.—He shall have a general supervision over the departments of the other members of the board, and shall inform the mayor and Municipal Assembly of any dereliction of duty of any commissioner. (M. C., sec. 1823.)

Sec. 1937. Shall make out special tax bills, etc.—He shall make out all special tax bills against property owners chargeable with

*See Charter, IV, sec. 41, and annotations.

special taxes for work performed or materials furnished under ordinances of the city, which special tax bills shall be registered by him in his office in full, and certified and delivered to the comptroller and said comptroller's receipt taken therefor. (M. C., sec. 1824.)

See as to special tax bills, Charter, Art. VI, secs. 24-26 and Art. IV, sec. 41, and annotations thereto.

Sec. 1938. Shall pass on pay-rolls.—All pay-rolls and all accounts for work done or materials furnished under the direction of any member of the board of public improvements shall be submitted to the president of the board, who shall examine them, and if found correct, shall certify them to the auditor. (M. C., sec. 1825.)

Sec. 1939. May appoint assistant, assessor and deputy of special taxes.—The president of the board of public improvements may appoint, with the approval of the mayor, an assistant, an assessor and a deputy assessor of special taxes. (M. C., sec. 1826.)

Sec. 1940. Duties of assistant.—The assistant shall, under the direction of the president, have supervision over all the office business of the president's department. He shall examine and certify to the president for his approval all vouchers and pay-rolls of the members of the board of public improvements and shall keep a record thereof. He shall examine and report to the president for his approval all contracts, let by the board of public improvements, and shall keep a detailed account of all expenditures thereunder. (M. C., sec. 1827.)

Sec. 1941. Salaries and bonds.—The assistant shall receive a salary of twenty-five hundred dollars per annum, and shall file a bond of five thousand dollars; the assessor of special taxes shall receive a salary of twenty-five hundred dollars per annum, and shall file a bond of five thousand dollars; the deputy assessor of special taxes shall receive a salary of eighteen hundred dollars per annum, and shall file a bond of three thousand dollars. (M. C., sec. 1828.)

Sec. 1942. Additional employes—salaries.—The president of the board of public improvements is hereby authorized to appoint, with the approval of the mayor, one civil engineer, at a salary of one hundred and seventy-five dollars per month; one issue clerk, to be in charge of the issue of permits and such other duties as the president may assign at a salary of one hundred and fifty dollars per month; one surveyor at a salary of one hundred dollars per month; one stenographer, at a salary of seventy-five dollars per month; one clerk, who shall also act as messenger, at a salary of sixty dollars per month. He may, with the approval of the mayor, further appoint such other clerks and draughtsmen, or other help, as may become necessary. The remuneration for their services shall be established by ordinance. In addition to the force already authorized by ordinance to carry out the scheme of sprinkling the city he may appoint, with the approval of the mayor, one clerk at twelve hundred dollars per annum; and two clerks at nine hundred dollars each per annum, to perform such other duties in the above matter as he shall designate. (M. C., sec. 1829.)

Ord. 21127, approved April 8, 1903, authorized the employment of draughtsmen in the special tax department for a period of two years after its approval, which expired; see next section for new provision.

As to salaries and employes, in addition to those authorized in this article, see those provided for in Art. IX of this chapter, in sec. 1995 (salary of the President), and in secs. 2003, 2004 (further employes and their salaries).

Sec. 1943. Draughtsmen for special tax department—tenure.—The president of the board of public improvements, with the approval of the mayor, is hereby authorized and empowered to employ three draughtsmen for duty under the assessor of special taxes, who shall hold office during the pleasure of the president of the board of public improvements, and who shall be paid at the rate of one hundred dollars per month. (Ord. 20554.)

Sec. 1944. Privileges, as to deeds, etc.—For the purpose of noting the changes of ownership of real estate in the city, upon the plats in the office of the president of the board of public improvements, the same privileges in regard to all deeds and instruments in writing, filed in the office of the recorder of deeds of the city, as are granted to the president of the board of assessors by section twenty-one of article five of the charter, are hereby granted to the president of the board of public improvements. (M. C., sec. 1830.)

ARTICLE III.

OF STREET COMMISSIONER.

Sec. 1945. General duties enumerated.—The street commissioner shall be the head of the street department, and shall have under his charge the surveying, construction, reconstruction, repairing, cleaning and sprinkling of the public streets, alleys and places, excepting parks, and also the supervision and control of all excavations, and refilling of same, made for the laying of gas and water pipes, sewers or any other purpose whatever, and until the office of gas commissioner is established, also the lighting and cleaning of the public lamps. His duties shall be:

First: To cause to be made all surveys and levelments and to prepare all plans and profiles necessary to the establishment of the location and graduation of streets, alleys and public highways.

Second. Whenever the Municipal Assembly shall provide by ordinance for establishing, opening, widening or altering any street, avenue, alley, wharf, market place or public square, or route for a sewer or water pipe, or to condemn private property for other or different public uses than those already specified in this section, and it is necessary to take private property for the same, the street commissioner shall furnish the city counselor with all necessary plats, showing the property affected by the proposed improvements, and the metes and bounds and the names of the owners thereof.

Third. To cause to be prepared plans, estimates and specifications for the construction, reconstruction and repairs of streets, alleys, and public highways, and of all bridges, culverts and appurtenances thereto; and to superintend the execution of all contracts and other work in his department, as may be provided for by ordinance.

Fourth. To preserve in his office all maps, plans and surveys belonging to his department, with all records, books, papers and other things relating thereto.

Fifth. To keep full, accurate and systematic accounts of all expenditures made under his supervision, properly "ledgerized" under appropriate heads; also, a systematic record of all transactions relative to his department, with full and complete index to all records.

Sixth. To cause to be carried into effect all ordinances of the city concerning street railroads, streets, alleys, public highways and public places other than parks, properly falling within the scope of his department.

Seventh. To clear, and keep in good condition, in such manner as may be prescribed by ordinance, the carriage way of all paved and macadamized streets, including gutters; also, all paved and macadamized alleys and crosswalks, the sidewalks around the public parks and such other sidewalks, the cleaning and keeping in good condition of which may be found impossible or impracticable to enforce upon the occupants of the adjoining property.

Eighth. To number all blocks within the city and to supervise and enforce the numbering of all houses fronting on the public street, in accordance with such system for the same as may be established by ordinance.

Ninth. To do all other lawful acts relating to matters placed particularly under his charge which may be necessary for the efficient working of his department.

Tenth. To give the grade and lines of streets, alleys and public highways and public places, other than parks, to all persons applying therefor, and being directly interested therein, free of cost; provided, that no such grade or lines shall be given when the same has not been legally dedicated, opened and established by ordinance. (M. C., sec. 1831.)

Charter, Art. IV., sec. 35. For duties relating to highways see Chapter 12 of Rev. Code. The disposal of garbage was formerly under the supervision of the Health Department, but soon after the decision in *State vs. Butler*, 178 Mo. 272, was by ordinance conferred upon the street department: see R. C., secs. 1199 *et seq.* (Chap. 12, Art. X, R. C.)

As to duty concerning the work of sweeping and cleaning streets see R. C., sec. 940.

See as to authority of street commissioner: *Steffen vs. St. Louis*, 135 Mo. 44, 49 *et seq.*

Sec. 1946. Employes of department—appointment, salaries, bonds and general duties.—The street commissioner may, with the approval of the mayor, appoint the following subordinates in the street department, who shall hold their respective offices during the pleasure of the street commissioner and who shall perform the duties hereinafter specified, and such other duties as pertain to their respective positions, and such as may be required of them by the street commissioner, and they shall each receive the following salaries and give the following bonds, to wit: One secretary, who shall receive a salary of one hundred and fifty dollars per month and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars; one principal book-keeper, who shall receive a salary of one hundred and fifty dollars per month, and shall give a good and sufficient bond, to be approved by the mayor and council in the sum of twenty-five hundred dollars; one principal clerk, who shall receive a salary of one hundred and twenty-five dollars per month; two stenographers, who shall each receive a salary of seventy-five dollars per month; one principal draughtsman, who shall receive a salary of one hundred and fifty dollars per month; two draughtsmen of the first class, who shall each receive a salary of one hundred dollars per month; two draughtsmen, who shall each receive a salary of seventy-five dollars per month; one messenger, who shall receive a salary of twenty-five dollars per month; one engineer of surveys, who shall receive a salary of one hundred and fifty dollars per month, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars; two surveyors, who shall each receive a salary of one hundred dollars per month; one first-class draughtsman on grades and surveys, who shall receive a salary of one hundred dollars per month; one first deputy street commissioner, who shall be a competent bridge engineer, and under the direction and control of the street commissioner, shall have charge, control

and supervision of the erection, construction and maintenance of all street bridges and culverts in the City of St. Louis, and who shall have been a resident of the City of St. Louis for at least two years prior to his appointment, and shall possess all the qualifications prescribed by the charter of the city for appointed officers, and who shall receive a salary of two hundred and eight dollars and thirty-three cents per month, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of ten thousand dollars; one district engineer of bridge department, who shall receive a salary of one hundred and twenty-five dollars per month, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of twenty-five hundred dollars; one first-class draughtsman, of the bridge department, who shall receive a salary of one hundred dollars per month; six rodmen, who shall each receive a salary of sixty dollars per month; three field hands, who shall each receive a salary of fifty dollars per month; one general superintendent of street construction, who shall be a competent civil engineer, and shall receive a salary of two hundred dollars per month, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars; one superintendent of maps and indexes, who shall receive a salary of one hundred and twenty-five dollars per month; one assistant commissioner, who shall receive a salary of two hundred and eight dollars and thirty-three cents per month, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars, and in case of the absence, sickness or inability to act of the street commissioner he shall have all the powers and discharge all of the duties of the street commissioner, and he shall at his own cost and expense furnish his own horse and buggy, but the maintenance thereof, not to exceed the sum of twenty dollars per month, shall be paid by the city; one office superintendent, who shall receive a salary of two hundred and eight dollars and thirty-three cents per month, and shall give a good and sufficient bond, to be approved by the mayor and the council, in the sum of five thousand dollars; one district engineer, who shall receive a salary of one hundred and twenty-five dollars per month, and shall give a good and sufficient bond, to be approved by the mayor and the council, in the sum of twenty-five hundred dollars; one clerk of excavation department, who shall receive a salary of one hundred dollars per month; one engineer of construction and reconstruction, who shall have charge and supervision of the construction and reconstruction of the streets, alleys and public places of the city, subject to the power and supervision of the general superintendent of street construction, and who shall receive a salary of one hundred and fifty dollars per month, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of twenty-five hundred dollars; four district superintendents, one for each of the four districts hereinafter created, who shall be at all times subject to the control and supervision of the street commissioner and in their respective districts shall supervise and have charge of the repairs, cleaning and sprinkling of the streets, alleys and public places of their respective districts, and of the sprinkling inspectors assigned to duty in their respective districts, and shall each receive a salary of one hundred and sixty-six dollars and sixty-six cents per month, and shall give a good and sufficient bond, to be approved by the mayor and the council, in the sum of five thousand dollars each, and shall each furnish his own buggy and horse, but the subsistence and maintenance thereof, not to exceed the sum of twenty dollars per month each, shall be paid by the city; one assistant superintendent for each of the said four district superintendents, who shall receive a salary of one hundred dollars per month, and who shall furnish his own buggy and horse, but the subsistence and maintenance thereof, not to exceed the sum of twenty dollars per month, shall be paid by the city; one clerk to each of the district

superintendents, who shall receive each a salary of seventy-five dollars per month; forty inspectors, ten of whom shall be assigned to each of the four districts hereinafter created, who shall each receive a salary of seventy-five dollars per month, and shall in addition to all other duties herein provided and such as may be required by the street commissioner, shall perform such duties as may be required by the district superintendents.

The offices of engineer of construction, general superintendent of repairs and cleaning streets, superintendent of excavations and superintendent of cleaning reconstructed streets, are hereby abolished, and the terms of the persons now holding said offices shall cease and determine upon the taking effect of this ordinance. (M. C., sec. 1832.)

For other positions and salaries see *infra*, following sections, and reference in notes; and for employees in street sprinkling department, sec. 1076. Commissioner's salary, see sec. 1996.

Sec. 1947. City divided into four street districts.—For the purpose of enabling the street commissioner to carry into effect the provisions of section 1946, the City of St. Louis is hereby divided into four districts, to be bounded as follows:

First District—Bounded on the south by the southern city limits; on the east by the Mississippi river; on the north by Soulard street, and its prolongation to the river, to Broadway; thence along Broadway to Allen avenue; thence along Allen avenue to Second Carondelet avenue; thence along Second Carondelet avenue to Gravois avenue; thence along Gravois avenue to Shenandoah street; thence along Shenandoah street to Grand avenue; thence along Grand avenue to Arsenal street; and thence along Arsenal street to western city limits.

Second District—Bounded on the south by the northern boundaries of district number one, aforesaid, on the east by the Mississippi river, on the north by Pine street from the river to Compton avenue, thence along Compton avenue to Chouteau avenue, thence along Chouteau avenue to the New Manchester road, thence along New Manchester road to King's highway, thence along Berthold avenue to western city limits.

Third District—Bounded on the south by the northern boundaries of district number two, aforesaid, on the east by the Mississippi river, on the north by St. Louis avenue, from the river to Twenty-third street; thence along Twenty-third street to Hebert street, thence along Hebert street to Grand avenue, thence along Grand avenue to Easton avenue, thence along Easton avenue to King's highway, thence along King's highway to Ridge avenue, thence along Ridge avenue to western city limits.

Fourth District—Bounded on the south by the northern boundaries of district number three, aforesaid, on the east by the Mississippi river, and on the north and west by the city limits. (M. C., sec. 1833.)

Sec. 1948. Additional employes of street department—salaries.—In addition to the officers hereinbefore specified, the street commissioner shall, with the approval of the mayor, appoint such additional surveyors, draughtsmen, rodmen, field hands, and inspectors, overseers, clerks, mechanics, teams, carts and day laborers as may be required for the efficient working of his department, whose salaries and hire, excepting day laborers, teams and carts, shall be as follows: Surveyors, one hundred dollars per month; draughtsmen, seventy-five dollars per month; rodmen, sixty dollars per month; field hands, fifty dollars per month; inspectors, seventy-five dollars per month; overseers of street repairs and street cleaning, seventy-five dollars per month; clerk, seventy-five dollars per month.

No teams, wagons or carts, belonging in whole or in part to the street commissioner, or to any officer in any of the departments, shall be used, directly or indirectly, for any work done or performed for or by the city. (M. C., sec. 1834.)

For additional employes connected with the garbage division of the street department see Rev. C., sec. 1205-1207. And for employes in the city forester's division see R. C., sec. 1252, 1253; and employes in street sprinkling division, R. C., sec. 1076.

Sec. 1949. Further subordinates and positions in street department—tenure—duties—various superintendents, etc.—There are hereby created the following named subordinate offices in the street department, to each of which the street commissioner may, with the approval of the mayor, appoint the following subordinates, who shall hold their respective offices during the pleasure of the street commissioner, and who shall perform the duties hereinafter specified and such other duties as pertain to their respective positions and such as may be required of them by the street commissioner, to-wit: One superintendent of street construction and reconstruction; four assistant superintendents of street construction and reconstruction; one superintendent of block patrol system of street cleaning; one superintendent of street sweeping; one superintendent of excavations; and one permit clerk in excavation division.

The superintendent of street construction and reconstruction shall have supervision over the work of constructing and reconstructing streets and alleys; the four assistant superintendents of street construction and reconstruction shall assist in supervising the work of constructing and reconstructing streets and alleys; the superintendent of block patrol system of street cleaning shall have charge of the work of cleaning the paved streets by manual labor; the superintendent of street sweeping shall have charge of the work of cleaning the paved streets by machines; the superintendent of excavations shall have charge of all excavations, and the refilling of same made in all public streets and alleys of the city; the permit clerk in excavation division shall issue excavation permits under the direction of the superintendent of excavations. (Ord. 21498, sec. 1, amending ord. 20101, and repealing 20871.)

Sec. 1950. Same—salaries.—The superintendent of street construction and reconstruction shall receive a salary of one hundred and twenty-five dollars per month; the four assistant superintendents of street construction and reconstruction shall each receive a salary of one hundred dollars per month; the superintendent of block patrol system of street cleaning shall receive a salary of one hundred and fifty dollars per month; the superintendent of street sweeping shall receive a salary of one hundred and fifty dollars per month; the superintendent of excavations shall receive a salary of one hundred and fifty dollars per month; and the permit clerk in excavation division shall receive a salary of ninety dollars per month. (*Ib.*, sec. 2.)

Sec. 1951. Same—bond of superintendents.—The superintendent of block patrol system of street cleaning, superintendent of street sweeping and the superintendent of excavations shall each file a bond in the sum of twenty-five hundred dollars, to be approved by the mayor and council. (*Ib.*, sec. 2.)

Sec. 1952. Same—horse and buggy—cost how paid.—The superintendent of block patrol system of street cleaning, the superin-

tendent of street sweeping and the superintendent of excavations, shall furnish their own horse and buggy at their own cost and expense, but the cost of subsistence and maintenance thereof shall be paid out of the city treasury, provided, that the same do not exceed the amount of twenty dollars per month each. (*Ib.*)

Sec. 1953. **Conveyance—what to be furnished by commissioner, etc.**—The street commissioner, street superintendents, one assistant superintendent, and the street inspectors, employed as sidewalk inspectors (special tax repairs), not to exceed three, and the street inspectors employed, as special inspectors, not to exceed three, shall furnish their own conveyance at their own cost and expense when such conveyance is necessary, but the cost of subsistence and maintenance thereof shall be paid out of the city treasury; provided, that the same do not exceed the amount of twenty dollars per month each. (M. C., sec. 1835.)

Sec. 1954. **Offices may be rented.**—The street commissioner may rent suitable offices for each of the street superintendents within their respective districts, the monthly rental of the same not to exceed twenty-five dollars. (M. C., sec. 1836.)

ARTICLE IV.

OF SEWER COMMISSIONER.*

Sec. 1955. **Qualifications and duties.**—The sewer commissioner shall be the head of the sewer department, shall be a civil engineer, and his duties shall be:

First—To take cognizance of all matters pertaining to the drainage of the city.

Second—To prepare all surveys, plans, specifications and estimates for all sewers to be constructed, and for the extension of the sewerage system of the city, as may be provided by ordinance.

Third—To superintend the construction of all public, district and joint district sewers, and to see that the provisions and regulations in regard to private sewers and house connections are strictly observed and enforced.

Fourth—To direct the cleaning of all public, district and joint district sewers with their inlets, manholes and other appurtenances.

Fifth—To keep a full, accurate and systematic account of all the expenditures of this department properly “ledgerized” under appropriate heads, and a systematic record of all transactions relating to his department with full and complete index to all records.

Sixth—To grant permits to make connections with all sewers under such restrictions and regulations as the Municipal Assembly may, on the recommendation of the board of public improvements, establish.

Seventh—To exhibit plans and surveys and furnish information upon public sewerage matters free of cost to all parties having a legitimate right to, and need of, such information, as may apply for it. (Ord. 20668, amending M. C., sec. 1837.)

*Charter provisions relating to sewer commissioner: Art. IV, section 36; also IV, secs. 2, 3, 34, 47. As to ordinance provisions concerning sewers see R. C., Chap. 34, being secs. 2302 and following.

Sec. 1956. Assistant and other employes.—The sewer commissioner, with the approval of the mayor, may appoint a suitable person, who shall be a civil engineer, as assistant, and may, with the approval of the president of the board of public improvements, appoint civil engineers, a secretary, draftsmen, clerks, a stenographer, a superintendent and overseers of sewer cleaning, inspectors, rodmen, field hands, sewer cleaners and laborers, as may, from time to time, be found necessary for the efficient working of the department, whose number, salaries and bonds, excepting day laborers, shall be fixed by ordinance. (Ord. 21424, amending ord. 20668.)

As to salaries of employes in sewer department see R. C., secs. 2011, 2001. Sewer commissioner's salary, sec. 1997.

The above ordinance was again amended (after the enactment of the Revised Code) by ord. 23131, approved July 15, 1907.

ARTICLE V.

OF WATER COMMISSIONER.*

Sec. 1957. Waterworks—work for to be let as other public work—subject to approval of council.—The doing of all work and the furnishing of all material and supplies for the waterworks shall be let out by the commissioner in the same manner as other public work, except in cases where it is not practical to do such work or furnish such material by contract; and all contracts shall be submitted to the council for approval. (M. C., sec. 1839.)

Same as Charter: Art. VII, sec. 3. A provision in a contract for water works improvements that "to prevent all disputes and litigation, the city's commissioner shall determine the amount of the several kinds of work, which are to be paid for under the contract and that he shall decide all questions that may arise relative to the execution of the contract on the part of the contractor, and that his estimates shall be final and conclusive" is valid and the court will not set aside the estimate in the absence of fraud, partiality or misapprehension: *McCormick vs. St. Louis*, 166 Mo. 315.

Sec. 1958. Water commissioner, qualifications—duties.—The water commissioner shall be the head of the water department, shall be a duly qualified engineer, and shall have under his special charge the pumping machinery, conduits, reservoirs, water pipes, and the operation of the same, the placing, repairing and maintenance of meters, valves, fire plugs and all other appurtenances of the water distribution. He shall design and superintend the enlargement and extension of the waterworks, and shall superintend and direct the laying of water pipe, making shut-offs and tapping of mains. He shall enforce the performance of all existing and future contracts, and, further, shall exercise a general supervision over the entire water supply of the city except the assessment of water rates and the collection of the revenue of the waterworks. (M. C., sec. 1840.)

See Charter provisions followed by this ordinance: Art IV, sec. 37; and also Art. VII, sec. 1.

Sec. 1959. Chief mechanical engineer—appointment—duties.—The water commissioner shall, with the approval of the mayor, appoint a suitable person as chief mechanical engineer, who shall be well skilled in machinery and in the running and management of pumping engines. Such

*Charter provisions, Art. IV, sec. 37; also IV, secs. 2, 3, 34, 42, 47; see especially Art. VII, secs. 1 to 6, and notes.

As to other employes and salaries besides those mentioned in this article see secs. 2001, 2005 to 2010, and for comr's. salary sec. 1997.

chief mechanical engineer shall have immediate charge of the engines and machinery, and of all matters pertaining to the pumping department. (M. C., sec. 1841.)

Sec. 1960. Assistant—other necessary employes to be appointed.—The water commissioner may also appoint, with the approval of the mayor, a suitable person to be assistant water commissioner, and may further appoint, with the approval of the president of the board of public improvements, such civil and mechanical engineers, superintendents, machinists, tappers, inspectors, gate-keepers, oil men, firemen, coal-passers, field hands, clerks, draftsmen, laborers and mechanics, as may from time to time become necessary for the efficient working of this department, whose number and compensation, except for day laborers, shall be established by ordinance. (Ord. 22003, amending M. C., sec. 1842.)

Besides employes mentioned in this article see further employes and salaries in R. C., secs. 2001, 2005 to 2010. As to right to provide for additional employes see Charter, Art. IV, sec. 42.

Sec. 1961. Certain employes for waterworks electric plant and railway—compensation.—The water commissioner is hereby authorized to employ, subject to the approval of the president of the board of public improvements, for the operation of the Water Works Electric Plant and Railway, one electrician, who shall receive compensation at the rate of one hundred dollars per month; three dynamo tenders, who shall each receive compensation at the rate of sixty dollars per month; three motormen, who shall each receive compensation at the rate of sixty dollars per month; three conductors, who shall each receive compensation at the rate of sixty dollars per month, and such mechanics and engineers as may be necessary, at not exceeding four dollars per day for each day of actual work. (Ord. 20483.)

Sec. 1962. Locomotive for waterworks.—The board of public improvements is hereby authorized and directed to procure one steam locomotive for the use of the water works. The cost of the same shall be paid by the City of St. Louis. (Ord. 21447.)

Sec. 1963. Conveyance—provisions for.—The water commissioner shall furnish his own conveyance, to consist of a horse and buggy, and shall receive therefor compensation at the rate of twenty dollars per month. (M. C., sec. 1843.)

ARTICLE VI.

OF HARBOR AND WHARF COMMISSIONER.*

Sec. 1964. His powers and duties.—The harbor and wharf commissioner shall be the head of the harbor and wharf department, and shall be specially charged with the execution of all ordinances of the city which relate to dykes, wharf and levee, steamboats and all other vessels, and rafts, and scavenger dumps; his duties shall be:

First—To cause to be made all surveys and levelments, and to prepare all plans, profiles and specifications necessary to the establishment, construction, reconstruction and repairs of the wharf, dykes and scavenger dumps, and to superintend the execution of all contracts and other public work in his department.

*Charter provisions see: Chart., Art. IV, secs. 2, 3, 34, 38, 47; Art. IX, secs. 1 to 10. For ordinances concerning Harbor and Wharf Department see R. C., Chap. X, sections 345 to 436.

Second—To furnish the city counselor correct plans of all lands to be condemned for wharf purposes, in accordance with ordinances of the city.

Third—To preserve in his office, all maps, plans and surveys belonging to his department, with all records, books, papers and other things relating thereto.

Fourth—To carefully examine and, if found correct, certify all bills and claims against the city, pertaining to his department, and to keep a full, accurate and systematic account of all expenditures made under his supervision, properly "ledgerized" under appropriate heads. This clause is not to be so construed as to authorize the employment of a bookkeeper.

Fifth—To make out upon blanks furnished by the comptroller, and deliver to the city collector for collection, all bills for wharfage dues, levee rates, and all other dues whatever to his department, as may be established by ordinance, immediately on the liability thereof accruing, taking duplicate receipts therefor, one of which he shall retain in his office, and the other he shall deliver at least monthly to the auditor for charge against the collector; also to furnish to the collector such information as will enable the said collector to collect said bills.

Sixth—To direct the landing and stationing of all boats, vessels or rafts arriving at any point within the limits of the city, and to direct the discharge and removal of their cargoes; to superintend the disposition of freight, merchandise and materials for repairs on the river bank; to keep the wharf and river along the shore free from nuisances, wrecks and other improper obstructions; to provide and keep in repair ring bolts, dead men, posts and other facilities for fastening vessels or rafts and generally to exercise complete supervision and control over the wharf, river bank, landing and Front street.

Seventh—To see that the scavenger dumps established by ordinance are kept in good, clean and safe condition, and to direct and regulate the dumping of offal, manure or other matter therefrom. (M. C., sec. 1844.)

See as to duties of commissioner, Charter, Art. IX (especially sec. 6 thereof); Art. IV, sec. 38. Ordinances Rev. Code, Chapter X, secs. 345-436.

Sec. 1965. Deputies and employes—bonds—salaries and wages.—The harbor and wharf commissioner may, with the approval of the mayor, appoint three deputies, who shall each receive a salary of one thousand dollars per annum, payable monthly, and who shall file a bond of two thousand five hundred dollars, to be approved by the mayor and council, and he may further, with the approval of the mayor and president of the board of public improvements, from time to time, when necessary, appoint three overseers of paving on the wharf, at a salary of two dollars and twenty-five cents per day each, and two field hands to assist the engineer in making surveys, at a salary of two dollars per day each. (Ord. 22166, sec. 1845.)

For other employes and their salaries of Harbor and Wharf Dept. see R. C., secs. 2012 to 2014, also sec. 411; as to comr's. salary and bond, sec. 1999.

Sec. 1966. Deputies to be sworn in as special police.—The deputies appointed under this article shall, at the request of the harbor and wharf commissioner, be sworn in as special policemen by the board of police commissioners, and shall be vested with all powers and privileges now vested in the metropolitan patrolmen of the police force in the State of Missouri, and shall exercise said power and authority in the discharge of their duties as deputies to the harbor and wharf commissioner of the City of St. Louis. (M. C., sec. 1846.)

Sec. 1967. Commissioner to have charge of dump boats.—The street cleaning dump boats shall be under the control and management of the harbor and wharf commissioner, who shall provide for the care and maintenance thereof. (M. C., sec. 1847.)

Sec. 1968. Dump boats, watchmen for.—The harbor and wharf commissioner is hereby authorized and directed to employ two day watchmen and one night watchman for each set of boats, whose compensation shall be fifty dollars per month. (M. C., sec. 1848.)

Sec. 1969. Pay-rolls for dump boats—certification of.—All pay-rolls and vouchers for current expenses necessary for the management and maintenance of said floating dump boats shall be certified to by the harbor and wharf commissioner and presented for payment in the same manner as other vouchers of his office. (M. C., sec. 1849.)

ARTICLE VII.

OF PARK COMMISSIONER.*

Sec. 1970. Commissioner to have charge of parks, etc.—The park commissioner shall be the head of the park department, and shall have under his special charge and control all the public parks, places and squares of the city, excepting such as are by the charter, or by their dedication or other special provisions in the nature of a contract, excluded from the control of the city. (M. C., sec. 1850.)

Charter, Art. IV, sec. 39.

Sec. 1971. Superintendent of parks and keepers.—The Park Commissioner shall have authority, with the approval of the mayor, to appoint one general superintendent, who shall be a well-qualified landscape gardener, and also with such approval, may appoint keepers for such of the different parks as may be provided by ordinance. (M. C., sec. 1851.)

As to salaries of park employes see post R. C., secs. 2001, 2015, 2016, 2017.

Sec. 1972. Engineers and other employes.—The park commissioner shall also have authority, with the approval of the mayor, to employ from time to time such engineers, draughtsmen and clerks, and with the approval of the president of the board of public improvements, such gardeners, overseers, laborers and field hands as may be necessary, whose number and salaries, excepting day laborers, shall be established by ordinance. (M. C., sec. 1852.)

Sec. 1973. Superintendent of parks—duties.—The superintendent of parks shall, under the direction of the park commissioner, have general supervision of all the keepers of and gardeners, laborers, etc., employed at the several parks. He shall superintend the laying out and grading of said parks and the planting of trees, shrubs and flowers therein. He shall report to the park commissioner any neglect of duty or delinquencies on the part of the men under his control. No employe of any park shall directly

*For Charter provisions concerning Park Commissioner see Art. IV, secs. 3, 34, 39, 47; Art. VIII. For ordinances concerning public parks see post R. C., secs. 2018 *et seq.* of Chap. 25.

Employes and salaries see post sec. 2001, and especially secs. 2015 *et seq.*

or indirectly be engaged in the furnishing of any flowers, trees or plants for any park owned by the city. (M. C., sec. 1853.)

Sec. 1974. Use of ponds for fish.—The use of ponds now existing in Forest Park, except "Pavilion Lake" and all such other ponds as may hereafter be constructed by the State Fish Commission with the approval of the board of public improvements of the City of St. Louis, is hereby granted to the fish commission of the State of Missouri for the purpose of hatching and propagating food fishes for the term of ten years, beginning on the first day of January, nineteen hundred and three; provided that the general ornamentation of the grounds adjacent thereto shall always be under the supervision of the park department of the City of St. Louis, as also the right to use said ponds for boating purposes whenever deemed desirable by the park commissioner.

Within thirty days after this ordinance goes into effect the State Fish Commission shall file its acceptance of the provisions hereof in the office of the city register, and if not filed as herein provided the ordinance shall be null and void. (Ord. 21060, amending M. C., sec. 1854.)

Ord., approved March 17, 1903, but the acceptance is not found on file in the register's office.

Sec. 1975. Ponds—improvements in by fish commission.—All improvements which said Fish Commission shall find it necessary or advisable to make, shall be made at its own expense and in strict accordance with plans and detail drawings first submitted to and approved by the board of public improvements, and any failure on the part of said Fish Commission to properly care for and keep charge of said premises, shall cause a forfeiture of the privilege herein granted, of which due notice shall be given to the mayor by the board of public improvements, and in such case the fishes with which the ponds are stocked and all appurtenances and improvements made, shall become the property of the city. (M. C., sec. 1855.)

ARTICLE VIII.

OF REGULATIONS CONCERNING THE ADVERTISING OF PUBLIC IMPROVEMENTS AND THE AWARDING OF CONTRACTS.*

Sec. 1976. Letting of work, to be numbered.—Each letting of work, by the board of public improvements, when advertised, shall be designated by a number, and shall be officially known by such number. (M. C., sec. 1856.)

Sec. 1977. Advertisement of notice of letting.—The notice of letting of such public work shall be published in the newspapers doing the city printing three times, the last publication to be at least ten days before the day appointed for the opening of bids; but when so provided in the ordinance, authorizing or directing the work to be done, the advertising may be for a different period and in other papers than those provided above. (Ord. 20543, amending M. C., sec. 1857.)

See Charter, Art. VI, sec. 27, and notes appended thereto as to the validity and interpretation of this and other sections of this article.

*See notes to Charter, Art. VI; especially sec. 27 thereof; see also R. C., secs. 884-888; also R. C., sec. 1165.

Sec. 1978. What such notice shall state.—Said notice shall state: First, the number of the letting. Second, the general nature of the work to be done. Third, the places where the plans and specifications and forms of contract may be seen. Fourth, the amount of certified check on some bank or trust company in the City of St. Louis, payable to the order of the city treasurer for the amount of deposit required, as hereinafter set forth, such check to accompany each bid and to be enclosed in the sealed envelope enclosing the bid. Fifth, the time and place when bids will be received; and, sixth, the hour and place of opening the bids. (*Ib.*, amending M. C., sec. 1858.)

In accordance with Charter, VI, sec. 27.

Sec. 1979. Bids how made.—Each bid for such work shall be made upon a blank form, to be furnished by the board of public improvements, and shall be placed in a sealed envelope, addressed to the "President of the Board of Public Improvements," indorsed "Proposals for Public Work," and with the number of the letting for which the bid is made. Each bid shall be signed by the bidder, or by an authorized officer or agent, where the bid is by a firm or a corporation. Said bid shall not be opened before the day and hour fixed in the notice. (M. C., sec. 1859.)

Sec. 1980. Certified check deposit to accompany bid.—Each bidder shall enclose in the sealed envelope enclosing his bid a certified check, as required by section 1978. (Ord. 20543, amending M. C., sec. 1860.)

Sec. 1981. Amount of deposit.—The amount of the deposit shall be equal to ten per cent of the total cost of the work as estimated by the board of public improvements if such estimated cost be three thousand dollars or less; if the estimated cost be more than three thousand dollars the deposit shall be ten per cent on three thousand dollars and two and one-half per cent on the excess above three thousand dollars; provided, that no deposit shall be less than fifty dollars. (M. C., sec. 1861.)

Sec. 1982. How deposit conditioned—extension of time by majority B. P. I.—The deposit so made shall be conditioned that the successful bidder shall enter into written contract to do the work bid for according to the terms of his bid, and shall furnish approved security within five days after the award has been made and the bidder notified thereof; but an extension of time for furnishing security may be granted by a majority vote of the board of public improvements, not to exceed fifteen days. (Ord. 20755, amending M. C., sec. 1862.)

Sec. 1983. When deposit forfeited – new bids.—If any bidder to whom a contract shall have been awarded shall fail to enter into contract and to furnish approved security within the time specified, his deposit shall be forfeited to the city, and the board of public improvements shall advertise for new bids. (M. C., sec. 1863.)

Sec. 1984. Disposition of deposits of successful and of unsuccessful bidders.—As soon as a contract for public work has been awarded the president of the board of public improvements shall return to each unsuccessful bidder the certified check accompanying his bid, as the amount of deposit. The certified check of the successful bidder shall be forwarded by the president of the board to the city treasurer as the deposit of such successful bidder, and the amount thereof shall be retained by the

treasurer until the contract shall have been entered into and approved by the council. Until such disposition shall be made of such certified checks accompanying bids the same shall remain in the custody of the president of the board of public improvements. (Ord. 20543, amending M. C., sec. 1864.)

Sec. 1985. Opening bids.—The bids shall be opened and read on the day and at the place indicated in the advertisement, by the president of the board of public improvements, at or about the hour of twelve m., in the presence of said board and of such bidders as desire to be present. (M. C., sec. 1865.)

Sec. 1986. Rejection of bids for non-compliance with requirements.—If in any bids blanks are not properly filled up so as to make a bid complete and without any ambiguity as to its intended meaning; or if a bid has any alteration or erasure upon it; or if it be not properly signed; or if the certified check has not been enclosed with the bid as hereinbefore provided—then said bid shall be rejected. (Ord. 20543, amending M. C., sec. 1866.)

Sec. 1987. Award to lowest responsible bidder—who such—rejection of all bids.—As soon as the canvass of the several bids shall have been completed the contract shall be awarded to the lowest responsible bidder. No person, firm or corporation shall be deemed such a responsible bidder who has failed or refused to fully carry out any prior contract let to him or them for doing any work contemplated by the charter; provided, however, that the board of public improvements shall have full power and authority to reject all bids advertised for and submitted, whenever, in its judgment, the interests of the city may require, and in such event shall in like manner readvertise for bids for such work. (Ord. 20543, amending M. C., sec. 1867.)

See Charter, Art. VI, sec. 27, and note.

Sec. 1988. Bonds—sureties.—The performance of all contracts made by the board of public improvements shall be secured by at least two sufficient and approved securities, giving bond to the City of St. Louis in amounts, as follows: When the estimated amount of the contract is five thousand dollars or less the bond shall be for the full amount of the contract, and when the estimated amount of the contract is over five thousand dollars the bond shall be for five thousand dollars and twenty-five per cent on the amount of the estimate in excess of five thousand dollars. No security on any bond shall be taken unless he shall pay taxes on property equal in the amount to his liability on all bonds on which he may be security to the city. (Ord. 20543, amending M. C., sec. 1868.)

See same reference as to preceding section; also note below.

Sec. 1989. Conditions of bond.—Said bond shall be conditioned that the principal therein will faithfully and properly perform the contract according to all the terms thereof, and that he will as soon as the work contemplated by said contract shall have been completed, pay to the proper parties all amounts due for material and labor used and employed in the performance thereof. Said bond may be sued on at the instance of any material man, laboring man or mechanic, in the name of the City of St. Louis, to the use of such material man, laboring man or mechanic, for any breach of the condition of said bond; provided that no such suit shall be instituted after the expiration of ninety days from the completion of the contract. (M. C., sec. 1869.)

The city cannot sue as trustee of an express trust for the benefit of property owners, on the bond of a contractor who violates his contract, thereby com-

selling a reletting to another contractor at an increased price, which the property owners are compelled to pay in special tax-bills: *St. Louis vs. Wright Contracting Co.* (decided March, 1907, 101 So. West. 6.)

But under the powers of the City of St. Louis granted in the Charter and necessarily implied therein, the city has the right to require in the contract, and as a condition in the bond, that laborers and material men shall be paid, and such provisions are a proper and reasonable incident to the express power to improve the streets by contract and to require a bond of the contractor. And the contract of improvement creates such a privity between the city and the laborer or material-men as entitle the latter to the benefits intended to be afforded them under the express conditions of the bond: *St. Louis vs. Von Phul*, 133 Mo. 561, (overruling *K. C. Sewer P. Co. vs. Thompson*, 120 Mo. 218). See note to sec. 28 of Art. VI of Charter; see provision of sec. 27 of Art. VI. As to state law to that effect see *R. S.* 1899, sec. 6762.

Sec. 1990. Signing and approval of contract.—Every contract entered into by the board of public improvements shall be signed by the president of the board in the name of the City of St. Louis, and shall then be submitted to the city counselor for the approval of the form thereof. After such approval has been received the contract shall be submitted to the council for its approval, which, when given, shall be indorsed thereon; it shall then be recorded, in the office of the president of the board of public improvements, and also of the commissioner having charge of the work. The original, after being countersigned by the comptroller, shall be deposited in the register's office, a duplicate shall be given to the contractor, and copies thereof shall be furnished to the comptroller and auditor. (*M. C.*, sec. 1870.)

Ord. 16514, appearing herein as *R. C.*, sec. 270, requires all contracts of certain kinds, (including public work) to contain certain conditions and terms concerning labor, etc., and provides for cancellation of contracts of contractors for violations and ineligibility for other contracts, etc.

Sec. 1991. Deposit for special tax work—restoration of surface, etc.—Before a contract awarded by the board of public improvements for any work which is to be paid for by a special tax, is executed, the bidder, to whom the award was made, shall be required to pay into the city treasury the sum of two hundred dollars, regardless of the number of such contracts which may have been awarded to him, as a special fund to be used by the commissioner under whose charge the work is to be done to defray the expenses of necessary repairs on the work, removal of unnecessary obstructions left by the contractor along the line of the work or the proper restoration of the surface of the ground along the line of the work where an excavation had been made, if said contractor shall be liable under his contract or contracts, and which repairs, removal of unnecessary obstructions or restoration of the surface of the ground said commissioner shall order made by reason of a failure of said contractor to make such repairs, remove such obstructions or restore such surface of the ground himself within the time specified by said commissioner. (Ord. 20573, amending *M. C.*, sec. 1871.)

This provision (then sec. 1369, *R. O.* 1892) was held valid in *Allen vs. Labsap*, 188 Mo. 692, 703.

Sec. 1992. Same—when additional deposit necessary.—Whenever the whole or part of said two hundred dollars shall have been expended for the purpose described in section 1991, the president of the board of public improvements shall notify said contractor to pay so much money into the treasury as will bring the fund again up to two hundred dollars; and until he shall have complied with said notice from the president of the said board, no new contracts for special tax work shall be awarded him, nor shall any special tax bills be delivered to him. (*M. C.*, sec. 1872.)

Sec. 1993. Conditions of return of special tax deposit.—Whenever such contractor shall cease to be contractor for special tax work, or to be responsible under any of his contracts for repairs on special tax work done by him, the president of the board of public improvements shall certify this fact to the auditor, and, on presentation of such certificate, the auditor shall draw his warrant on the treasurer, in favor of said contractor, for the whole amount standing to the credit of the special fund created by the payment of said contractor, in accordance with the provisions of sections 1991 and 1992, and shall take his receipt therefor, in full of all claims against the city on account of said payments. (M. C., sec. 1873.)

Sec. 1994. Contracts for grading and repairs to be made annually.—The board of public improvements shall, in every year, enter into contract for one year, beginning on the first of July, for the grading, constructing, reconstructing and repairing of sidewalks and for the repairing of street and alley and gutter paving, and such other similar work as may be ordered by ordinance, or which may become necessary to be done during the year. (M. C., sec. 1874.)

Under this section the owner of premises is liable for his pro rata of intersecting streets even though he himself has caused the sidewalk "in front of his property" to be reconstructed, if his permit does not cover such intersections: *Heman vs. McManus*, 102 Mo. App. 649.

Sec. 1994a. Annual emergency contracts by B. P. I. for work appertaining to sewers—materials—cost.—The board of public improvements is hereby authorized and directed to let and enter into annual contracts from the first day of July of every year for emergency work required for the maintenance of sewers, sewer inlets, manholes and appurtenances, and for necessary repairs of sewers, sewer inlets, manholes and appurtenances requiring prompt attention.

The aforesaid emergency work and necessary repairs shall be done with stone, brick, concrete, cement, iron, and other materials necessary for the proper performance of such work as aforesaid.

The cost of such work as aforesaid shall be paid by the City of St. Louis, from the funds annually appropriated and set aside out of municipal revenue for "sewers, salaries, current expenses and repairs," to cover the cost of such work aforesaid. (Ord. 20902.)

ARTICLE IX.

OF SALARIES AND BONDS OF MEMBERS OF THE BOARD OF PUBLIC IMPROVEMENTS AND THEIR EMPLOYEES.

Sec. 1995. President—salary and bond.—The president of the board of public improvements shall receive a salary of five thousand dollars a year, payable monthly, and shall give a good and sufficient bond in the sum of twenty-five thousand dollars, conditioned as the bond of other city officers, and to be approved by the mayor and council. (M. C., sec. 1877.)

Sec. 1996. Street commissioner—salary and bond.—The street commissioner shall receive a salary of four thousand dollars a year, payable monthly, and shall give a good and sufficient bond in the sum of twenty thousand dollars, conditioned as the bond of other city officers, and to be approved by the mayor and council. (M. C., sec. 1878.)

For employes of street com'r. and salaries, see R. C., secs. 1946, 1948-1952; garbage department, R. C., sec. 1205-1207; City Forester's dept., secs. 1252-1253.

Sec. 1997. Sewer commissioner—salary and bond.—The sewer commissioner shall receive a salary of three thousand five hundred dollars a year, payable monthly, and shall give a good and sufficient bond in the sum of twenty thousand dollars, conditioned as the bond of other city officers, and to be approved by the mayor and council. (M. C., sec. 1879.)

Other employes and salaries see R. C., secs. 1956, 2001, 2011.

Sec. 1998. Water commissioner—salary and bond.—The water commissioner shall receive a salary of four thousand five hundred dollars a year, payable monthly, and shall give a good and sufficient bond in the sum of twenty thousand dollars, conditioned as the bond of other city officers, and to be approved by the mayor and council. (M. C., sec. 1880.)

Salaries of employes of Water Commissioner's dept.: R. C., secs. 1960, 1961, 2001, 2005 to 2010.

Sec. 1999. Harbor and wharf commissioner—salary and bond.—The harbor and wharf commissioner shall receive a salary of three thousand dollars a year, payable monthly, and shall give a good and sufficient bond in the sum of ten thousand dollars, conditioned as the bond of other city officers, and to be approved by the mayor and council. (M. C., sec. 1881.)

Salaries of Harbor and Wharf dept., secs. 2012 to 2014; 1965; 411.

Sec. 2000. Park commissioner—salary and bond.—The park commissioner shall receive a salary of three thousand dollars a year, payable monthly, and shall give a good and sufficient bond in the sum of ten thousand dollars, conditioned as the bond of other city officers, and to be approved by the mayor and council. (M. C., sec. 1882.)

Employes of Park Com'r., secs. 1970-1973; salaries of employes, R. C., secs. 2001, 2015 to 2017. Ordinances about parks see R. C., secs. 2018-2035, Chart., Art. VIII.

Sec. 2001. Salaries and bonds of assistant to sewer commissioner, assistant to water commissioner, chief mechanical engineer to water department and park superintendent.—For the purpose of continuing the offices of assistant to sewer commissioner, assistant to water commissioner, chief mechanical engineer water department and park superintendent, and preserving the status of the persons at present holding said positions and of preserving the ordinance regulations at present existing with respect to the salaries, duties and bonds of said officers, said officers and employes shall receive the following compensation and shall each file the following bonds, to wit: Assistant to sewer commissioner, twenty-five hundred dollars per annum, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars; assistant to water commissioner, twenty-five hundred dollars per annum, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars; chief mechanical engineer, water department, twenty-five hundred dollars per annum, and shall file a good and sufficient bond, to be approved by the mayor and council, in the sum of five thousand dollars; park superintendent, eighteen hundred dollars per annum, and shall give a good and sufficient bond, to be approved by the mayor and council, in the sum of twenty-five hundred dollars.

The above salaries shall be paid monthly. (Ord. 22004, amending ord. 21283.)

See note to sec. 2005.

Sec. 2002. Horse and buggy of park superintendent.—The park superintendent shall be required to furnish his own conveyance, consisting of horse and buggy, but the cost of subsistence and maintenance thereof, not to exceed the sum of twenty dollars per month, shall be paid by the city. (M. C., sec. 1884.)

Sec. 2003. Salaries and bonds of clerks and employes of president of the board.—The salaries and bonds of employes in the office of president of the board of public improvements shall be as follows: The clerks in said office shall be divided into three classes, and their salaries shall be as follows: Clerks of the first class, not to exceed two in number, at the rate of fifteen hundred dollars per annum each, who shall give bond in the sum of twenty-five hundred dollars each; clerks of the second class, not to exceed five in number, at the rate of twelve hundred dollars per annum each, who shall give bond in the sum of twenty-five hundred dollars each; and clerks of the third class, not to exceed five in number, at the rate of nine hundred and sixty dollars per annum each, who shall give bond in the sum of eighteen hundred dollars each; one draughtsman, at the rate of twelve hundred dollars per annum, and shall give bond in the sum of twenty-five hundred dollars. Said appointments shall be made subject to the approval of the mayor. The salaries of the above-named officers shall be payable monthly, and their bonds shall be approved by the mayor and council. (M. C., sec. 1885.)

Sec. 2004. Salaries of other employes of president of the board.—The compensation for services of other help shall be as follows: Civil engineers at the rate of five dollars per day; surveyors at the rate of four dollars per day; field hands at the rate of two dollars and fifty cents per day; draughtsmen of the second class at the rate of seventy-five dollars per month; and of the third class at the rate of fifty dollars per month. The help herein named shall be employed temporarily, and only for work ordered by the board of health, or other work not specially belonging to the department of any commissioner; and, provided that the different commissioners, on application to the president, shall have declared their inability to have the necessary surveys made, and drawings and estimates prepared by the force in their employ. (M. C., sec. 1886.)

For further employes of Pres. of B. P. I. and salaries, besides those authorized in this article, see Art. II, secs. 1939 to 1943 inclusive.

Sec. 2005. Salaries of employes in water commissioner's office.—The several employes in the department of the water commissioner (commissioner's office) shall receive monthly compensation as follows: One secretary, one hundred and seventy-five dollars; one chief clerk and book-keeper, one hundred and fifty dollars; one stenographer and typewriter, seventy-five dollars; one clerk at seventy-five dollars; one janitor, sixty dollars. (Ord. 21888, sec. 1, amending M. C., sec. 1887.)

Besides employes and salaries mentioned in this article see others, in secs. 1960, 1961, 1959, 2001.

Sec. 2006. Salaries of employes in distribution system.—The several employes in the department of the water commissioner, distribution system, shall receive monthly compensation as follows: One engineer in charge, two hundred dollars; one first assistant engineer, one hundred and fifty dollars; one second assistant engineer, one hundred and twenty-five dollars; one chief draftsman, one hundred and twenty-five dollars; one as-

sistant draftsman, one hundred dollars; two stenographers and typewriters, seventy-five dollars each; one foundry inspector, ninety dollars; three pipe laying inspectors, ninety dollars each; one field hand, sixty dollars; one foreman, one hundred and twenty-five dollars; three assistant foremen, ninety dollars each; four assistant foremen, eighty-five dollars each; one bookkeeper, one hundred dollars; one assistant bookkeeper, eighty-five dollars; one station bookkeeper, ninety dollars; one station bookkeeper, seventy-five dollars; three station bookkeepers, sixty-five dollars each; one machinist, seventy-five dollars; one blacksmith, seventy-five dollars; twenty-five section men, seventy dollars each; ten first-class laborers, seventy dollars each; thirty second-class laborers, two dollars and twenty-five cents per day each; ten drivers, fifty-five dollars each; four telephone men, sixty dollars each; fifteen watchmen, fifty-five dollars each; two stable men, sixty-five dollars each; four stable helpers, fifty dollars each. (*Ib.*, sec. 2, amending M. C., sec. 1888.)

Sec. 2007. Salaries of employes in meter and tap department.

—The several employes in the department of the water commissioner, meter and tap department, shall receive monthly compensation as follows: One superintendent, one hundred and twenty-five dollars; one tapper, one hundred dollars; one tapper, seventy-five dollars; two tappers' helpers, sixty dollars each; three meter helpers, sixty-five dollars each; three meter helpers, fifty-five dollars each; one clerk, eighty-five dollars. (*Ib.*, sec. 3, amending M. C., sec. 1889.)

Sec. 2008. Salaries of employes in inspection department.

—The several employes in the department of the water commissioner, inspection department, shall receive monthly compensation as follows: One superintendent of supply inspectors, one hundred dollars; twenty-five inspectors, sixty-five dollars each. (*Ib.*, sec. 4, amending M. C., sec. 1890.)

Sec. 2009. Salaries of employes in supply and purifying division.—The several employes in the department of water commissioner, supply and purifying division, shall receive monthly compensation as follows: One engineer in charge, two hundred dollars; one assistant engineer, one hundred and sixty-five dollars; one assistant engineer, one hundred and fifty dollars; one chief draftsman, one hundred and fifty dollars; one draftsman, second class, one hundred and twenty-five dollars; one draftsman, third class, one hundred dollars; two inspectors, ninety dollars each; two rodmen, sixty-five dollars each; two field hands, sixty dollars each; two stenographers, seventy-five dollars each; one chief clerk, one hundred and twenty-five dollars; one clerk, seventy-five dollars; one janitor, sixty dollars; two foremen, ninety dollars each; five foremen, seventy-five dollars each; nine gatekeepers, sixty dollars each; three gatekeepers, fifty dollars each; nine watchmen, fifty-five dollars each; one timekeeper, seventy-five dollars; one gardener, one hundred dollars; four assistant gardeners, seventy-five dollars each; one chemist, two hundred dollars; one assistant chemist, one hundred dollars; one messenger, sixty dollars; one electrician, one hundred and twenty-five dollars; three motormen, sixty dollars each; three conductors, sixty dollars each; two linemen, eighty-five dollars each; one locomotive engineer, three and eighty-hundredths dollars per day each; one fireman, two and twenty-hundredths dollars per day; one switchman, two and eighty-hundredths dollars per day; one foreman for switching crews, three and six-hundredths dollars per day; one tower watchman, seventy-five dollars; two tower watchmen, sixty dollars each. (*Ib.*, sec. 5, amending M. C., sec. 1891.)

Sec. 2010. Salaries of employes in high and low service engines department.—The several employes in the department of water commissioner, high and low service engines, shall receive monthly compensation as follows: First—Construction department: One mechanical engineer in charge, two hundred dollars; one first assistant engineer, one hundred and fifty dollars; one second assistant engineer, one hundred and twenty-five dollars; one draftsman, one hundred dollars; one inspector, one hundred dollars. Second—Operating department: (A) Low service station, Chain of Rocks: One engineer in charge, one hundred and seventy-five dollars; eight assistant engineers, one hundred and fifteen dollars each; eight oilers, seventy dollars each; fourteen firemen, seventy dollars each; fourteen coal passers, sixty dollars each; one foreman of machine shop, ninety-five dollars; two first-class machinists, eighty-five dollars each; three second-class machinists, seventy-five dollars each; two machine shop helpers, sixty dollars each; one blacksmith, seventy-five dollars; one blacksmith's helper, sixty dollars; one foreman, boiler room, seventy-five dollars; six screen keepers, sixty dollars each; one storekeeper, sixty-five dollars; two janitors, fifty-five dollars each; one clerk, seventy-five dollars. (B) High service station number three: One engineer in charge, one hundred and seventy-five dollars; eight assistant engineers, one hundred and fifteen dollars each; sixteen oilers, seventy dollars each; sixteen firemen, seventy dollars each; sixteen coal passers, sixty dollars each; one foreman, machine shop, ninety-five dollars; two first-class machinists, eighty-five dollars each; four second-class machinists, seventy-five dollars each; one blacksmith, ninety dollars; one blacksmith's helper, sixty-five dollars; two machine shop helpers, sixty dollars each; two engineer's helpers, sixty-five dollars each; one foreman of boiler room, seventy-five dollars; two janitors, fifty-five dollars each; three dynamo tenders, sixty-five dollars each; one clerk, seventy-five dollars; one storekeeper, seventy dollars; one pattern-maker, one hundred dollars. (C) High service stations numbers one and two: One engineer in charge, one hundred and seventy-five dollars; eight assistant engineers, one hundred and fifteen dollars each; twelve oilers, seventy dollars each; sixteen firemen, seventy dollars each; sixteen coal passers, sixty dollars each; one foreman of machine shop, ninety-five dollars; three first-class machinists, eighty-five dollars each; two second-class machinists, seventy-five dollars each; one blacksmith, seventy-five dollars; one blacksmith's helper, sixty-five dollars; one boilermaker, eighty-five dollars; one boilermaker's helper, sixty-five dollars; two engineers' helpers, sixty-five dollars each; two machinists' helpers, sixty dollars each; one foreman of boiler rooms, seventy-five dollars; one clerk, seventy-five dollars; one storekeeper, seventy-five dollars; three janitors, fifty-five dollars each. (*Ib.*, sec. 6, amending M. C., sec. 1892.)

Ord. 21888 also repeals M. C., secs. 1893, 1894, and ordinances 14223 and 21522.

For other salaries of water dept. see note to sec. 2005.

Sec. 2011. Salaries and bonds of employes in sewer department not otherwise fixed.—The salaries of persons employed in the sewer department, whose compensation has not heretofore been fixed, and their bonds, shall be as follows: One civil engineer, one hundred and seventy-five dollars per month, who shall give bond in the sum of three thousand dollars; one secretary, one hundred and fifty dollars per month, who shall give bond in the sum of two thousand dollars; three assistant civil engineers, one hundred and twenty-five dollars per month each, and each shall give bond in the sum of two thousand dollars; one draftsman, one hundred and twenty-five dollars per month, who shall give bond in the sum of two thousand dollars; two assistant draftsmen, eighty-five dollars per month

each; one permit clerk, one hundred and twenty-five dollars per month, who shall give bond in the sum of two thousand dollars; one clerk, one hundred dollars per month, who shall give bond in the sum of one thousand dollars; one stenographer, seventy-five dollars per month; one clerk, sixty dollars per month; one superintendent of sewer cleaning, one hundred twenty-five dollars per month, who shall give bond in the sum of two thousand dollars; three overseers of sewer cleaning, seventy-five dollars per month each; inspectors, not exceeding thirty, eighty-five dollars per month each; three rodmen, sixty dollars per month each; three field hands, fifty dollars per month each, and twenty sewer cleaners, sixty-five dollars per month each. All of said salaries shall be payable monthly. (Ord. 21610, amending ordinances 21424 and 20668.)

See R. C., 1955-1956; 2001, 1997. The above section (2011) was again amended by ordinance 23132, approved July 15, 1907, after the Revised Code was enacted.

Sec. 2012. Employes in harbor and wharf department—salaries and bonds.—The harbor and wharf commissioner is hereby authorized and empowered to appoint the following officers, with the consent and approval of the mayor, to-wit: A chief clerk, whose salary shall be sixteen hundred dollars per annum and who shall give bond to the City of St. Louis in the sum of two thousand dollars; one civil engineer, whose salary shall be two thousand dollars per annum, and who shall give bond to the City of St. Louis in the sum of five thousand dollars; one clerk for the levee office, whose salary shall be twelve hundred dollars per annum, and who shall give bond to the City of St. Louis in the sum of two thousand dollars. The salaries of the above-named officers shall be payable monthly, and their bonds shall be given with two or more good and sufficient securities, holders of unincumbered real estate in the City of St. Louis, to be approved by the mayor and council. The harbor and wharf commissioner may also appoint a messenger at the levee office, whose salary shall be one dollar and seventy-five cents per day. (Ord. 22166, amending ord. 21211, M. C., sec. 1896.)

For other employes and their salaries see secs. 411, 1965, 2014. Commissioner's salary, sec. 1999.

Sec. 2013. Employes for harbor and wharf-boat.—For the purpose of operating the harbor boat in cleaning the levee and removing wrecks and other obstructions from the harbor, and for keeping said boat ready to assist the fire department in case of fire at or near the levee, the harbor and wharf commissioner is hereby authorized and empowered, with the approval of the mayor, to appoint the following officers for said boat, to-wit: One captain, one pilot, one mate, one night watchman, one engineer, one assistant engineer, and two firemen; all of the above officers to have government licenses, excepting the night watchman and two firemen. (*Ib.*, *ib.*, amending M. C., sec. 1897.)

Sec. 2014. Same—salaries.—The compensation of said officers shall be as follows: The captain, one hundred dollars per month; the pilot, ninety dollars per month; the mate, sixty dollars per month; the night watchman, fifty-five dollars per month; assistant engineer, seventy dollars per month; the two firemen, sixty dollars per month each. (*Ib.*, *ib.*, amending M. C., sec. 1898.)

Sec. 2015. Park commissioner employes and salaries.—The park commissioner may appoint, with the approval of the mayor, a chief clerk at a salary of fifteen hundred dollars per annum, and an assistant

clerk, who shall also act as overseer, at a salary of nine hundred dollars per annum, to be paid in monthly installments. (M. C., sec. 1899.)

See next note.

Sec. 2016. Keepers of parks and public places—salaries.—He may also appoint, with the approval of the mayor, keepers of the following named parks, whose salaries shall be paid out of the funds as set apart for said parks respectively, and which shall be as follows, to-wit: Keeper of Forest Park, seventy-five dollars per month; keeper of Lafayette Park, seventy-five dollars per month; keeper of Carondelet Park, sixty-five dollars per month; keeper of O'Fallon Park, sixty-five dollars per month; keeper of Hyde Park, sixty-five dollars per month; keeper of Benton Park, sixty-five dollars per month; keeper of St. Louis Place Number One, sixty dollars per month; keeper of St. Louis Place Number Two, sixty dollars per month; keeper of St. Louis Place Number Three and Four, sixty dollars per month; keeper of Carr Square, sixty dollars per month; keeper of Laclede Park, sixty dollars per month; keeper of Lyon Park, sixty dollars per month; keeper of Jackson Place, fifty dollars per month; keeper of South St. Louis Square, fifty dollars per month; keeper of Gravois Park, forty-five dollars per month; keeper of Washington Square, sixty-five dollars per month; keeper of Gamble Place, fifty dollars per month. (Ord. 22377, amending 20836, amending M. C., sec. 1900.)

As to park employes and superintendents, etc., see R. C., secs. 1970-1973; also sec. 2001. As to provisions respecting public parks see R. C., secs. 2018, *et seq.* As to other parks, and other sites being made parks, see note to Chapter 25 *infra*.

Sec. 2017. Park commissioner—other appointments to be made by.—The park commissioner shall have authority, with approval of the mayor, to employ from time to time such engineers, draughtsmen and clerks and with the approval of the president of the board of public improvements, such overseers, foremen, laborers, rodmen, first-class gardeners, second-class gardeners, carpenters, machinists, field hands, laborers and boys as may be absolutely necessary and within the appropriations for each park, whose salaries shall be as follows, to-wit: Civil engineers, one hundred dollars per month; draughtsmen, first-class, one hundred dollars per month; draughtsmen, second-class, eighty dollars per month; rodmen, sixty dollars per month; overseers, three dollars per day; foremen of laborers, two dollars per day; first-class gardeners, two dollars per day; second-class gardeners, one dollar and seventy-five cents per day; carpenters, three dollars per day; machinists, three dollars per day; field hands, two dollars per day; laborers, one dollar and fifty cents per day; boys, one dollar per day. (M. C., sec. 1901.)

CHAPTER 25.

OF PUBLIC PARKS.*

*As to the **Charter powers** of the city in general concerning parks and park commissioner, see Charter, Art. VIII, secs. 1-6, and notes thereto. See also Art. III, sec. 26, clause 3; Art. IV, sec. 39. State ex rel. vs. Schweickardt, 109 Mo. 496. **For ordinances** concerning same see Rev. Code, secs. 1970-1975, 2001, 2015-2017, 2018-2035. The **names of the various parks** are enumerated in section 2016, except Tower Grove, Carnegie Place, Yeatman Square, Dakota Park, Page Avenue Place, Rose Hill Place, Lindell Boul. Triangle, Forest Park Boul. See for **park employes and salaries**, secs. 2015-2017, 2000-2002. As to **prohibition of saloons**, by

ordinance, within 400 feet of Lafayette, Tower Grove, O'Fallon, Carondelet and Forest Parks, see Rev. Code, sec. 2157, and note thereto appended; and as to **prohibition of certain establishments** within a mile and a quarter of Tower Grove Park see Session Acts 1871, p. 189, sec. 1 ("Laws Specially Applicable to St. Louis" p. 173, sec. 426.) And as to **cattle**, see R. C., sec. 2023.

Tower Grove is excepted by charter from the City Park Department and stands upon a special basis, having been donated on certain conditions, to the city, by Henry Shaw, and was created and is governed in pursuance of certain statutory provisions (see Laws Mo. 1867, pp. 172-175, Laws 1872, p. 469, Laws 1871, p. 189, all of which are herein specifically set out under "Laws Specially Applicable to St. Louis," pages 170-173, being Chap. 23, secs. 400-426.) **Missouri Botanical Garden** also stands upon a special basis (Shaw will) and is not under the care of the Park Department.

Lafayette Park is affected by Session Laws 1863-4, p. 467; Laws 1868, p. 293; ordinance 11973 (see also ord. 2917, 3070, 3847, 4164, 4471, 4490 and 7341).

Forest Park, see acts 1872, pp. 255-259 (held void in *State ex rel. vs. Lef-fingwell*, 54 Mo. 458); act of March 25, 1874 (the latter held valid in *Co. Ct. vs. Griswold*, 58 Mo. 175), but "repealed" in Charter, Art. VIII, sec. 6; see *State ex rel. vs. Schweickardt*, 109 Mo. 496.

O'Fallon Park: See Charter, Art. VIII, sec. 5 (old bonds); and *b.*, sec. 6, "repealing" acts of March 25, 1874.

Carondelet Park, act of Feb. 25, 1874, "repealed" by Charter, Art. VIII, sec. 6. (For new site or prolongation of this park see ord. 22938.)

Lindell Boulevard Triangle (by ordinance 18573, according to the provisions of ord. 18276, and bounded west by Vandeventer ave.) is made a park (Mun. C., sec. 1902); and so of

Forest Park Boulevard (Mun. Code, sec. 1903) the central fifty feet thereof from Boyle to Kingshighway. These two sections appear in the Mun. Code, but are not carried into this revision because they are as much special ordinances as those creating the other parks, none of which have ever appeared in the revision of the general ordinances.

Small Park Sites: Authority given to Public Baths Commission and Park Commissioner to recommend same, see ord. 22541, approved July 13, 1906; and to the Mayor, Comptroller and Park Commissioner, subject to approval of ways and means committees of assembly, see ord. 22754, app. Feb. 5, 1907; park site at Dover and Broadway, see ord. 22937; at Kansas street and prolongation of Carondelet park: ord. 22938; site on tract bounded by Penrose street, Bircher street, Euclid ave. and Calvary ave.: ord. 22971.

Compton Hill Reservoir Park is under charge of the water department.

Sec. 2018. Park regulations—what prohibited.—No person shall break, cut, mutilate, injure, remove or carry away any tree, shrub, plant, flower, stone or stonework, bench, chair, seat, bower, stand, structure, fence or property, or thing whatsoever, in, upon or near any park, square or place in this city, or any street, avenue or highway around the same; nor molest any birds, bird's nests, or any fish or animal or anything belonging to or kept therein, or paste or affix or inscribe any handbill, poster, card, device or inscription to or upon or against any fence, structure or property of, or on such park, place or square, or highway surrounding the same, or disfigure any sward, gravel, sand, turf or earth, or any tree, fence or structure therein or adjacent thereto, or fasten or hitch any animal to any tree, fence or structure in, around or upon the same, or the streets or avenues surrounding the same, or ride or drive any animal or vehicle therein, except on the proper roadways and drives of Forest, Carondelet, O'Fallon and Tower Grove parks and at a rate of speed not exceeding eight miles per hour; nor shall any person deliver any oration, address, speech, sermon or lecture therein, or walk or go upon any grass plot, lawn or other place prohibited by the park commissioner, or permit any domestic animal to go or run at large, or be without attendant within any such place, park or square, and all such animals shall be taken up and impounded, and if not claimed within ten days, sold, and the fact of such animal being found running at large shall be evidence of such permission by the owner thereof; no omnibus, herdic or express wagon with or without passengers, nor any cart, dray,

truck or other vehicle carrying goods or articles of any kind (except when required in the service of the park department), nor any hearse or procession of carriages, shall be permitted to use the drives or other roadways of Forest, Carondelet, O'Fallon and Tower Grove parks; dogs or pet animals of any kind shall not be permitted to be brought into any of the parks except the driving parks, and there only when fastened to or led by a cord or string not to exceed six feet in length. (M. C., sec. 1904.)

Speed limit for automobiles, etc., in parks is six miles: See R. C., sec. 1551.

Sec. 2019. Disorderly conduct, and games prohibited—peddlers excluded.—All disorderly or indecent conduct, the use of threatening, obscene or profane language, and all games, acts or demeanor calculated or tending to mar or disturb the feelings or enjoyment of the visitors attending such parks, places or squares, are prohibited therein, nor shall any person parade, exhibit or distribute any advertisement, circular or handbill therein, nor any peddler or petty dealer sell or in any manner dispose of any article in or adjoining any public park, place or square. (M. C., sec. 1905.)

Sec. 2020. Applications for picnics.—Picnics may be allowed in Forest, Carondelet and O'Fallon parks on written application to the park commissioner signed by some responsible party. (M. C., sec. 1906.)

Sec. 2021. Regulations as to driving parks.—The board of public improvements may from time to time make such further regulations for the driving parks as may become necessary. (M. C., sec. 1907.)

Sec. 2022. Keep to the right of park roadway—penalty.—It shall be the duty of all persons driving vehicles of any kind on the park roadways, and of all persons riding horses, bicycles, or tricycles on such roadways, at all times to keep to the right of the center of such park roadways, except when prevented by obstructions. Any person violating this section shall be deemed guilty of a misdemeanor, and for each offense shall be fined not less than five dollars nor more than twenty-five dollars. And it shall be the duty of the keepers of the several parks to see that this section is strictly enforced. (M. C., sec. 1908.)

Sec. 2023. Limits within which cattle excluded.—No person shall be permitted to bring or drive any loose cattle or stock of any kind within two hundred feet of any public park, place or square, and any person so offending shall, in addition to the penalty, hereinafter provided, be liable for all damages done to public property by such violation of this provision; provided, that this provision shall not apply to Forest, O'Fallon, Hyde and Carondelet parks, except in regard to damage done by any such cattle. (M. C., sec. 1909.)

Sec. 2024. Keepers to be sworn as special police.—The keepers of the several parks shall be sworn in as special police and be entrusted with the enforcement of the provisions of this article, and shall at all times have the assistance of the regular police force in carrying out the same. (M. C., sec. 1910.)

Sec. 2025. Park commissioner may lease certain buildings.—The park commissioner with the approval of the board of public improvements, is authorized in behalf of the city, to lease any building (other than

the cottage and out-buildings connected therewith in Forest Park) in Forest, Carondelet and O'Fallon parks, for the period of one year or less, for residence purposes only, such lease to be subject to be terminated at any time for cause, by resolution of the board of public improvements, and in all cases the rents to be payable in advance. (M. C., sec. 1911.)

Leasing park, see Charter, Art. VIII, sec. 4 and note.

Sec. 2026. When comptroller and commissioner to lease.—

In case of failure to receive any bids after two successive advertisements therefor or when the lease for any cause shall have been forfeited, the park commissioner and comptroller with the approval of the board of public improvements, are authorized on behalf of the city to lease out said premises for the purpose hereinbefore mentioned, for the term not exceeding one year, to such person or persons in good standing as may make the most advantageous offer for them; such lease to be terminated at any time for cause to be evidenced by a resolution of the board of public improvements, and after thirty days' notice by the park commissioner, and all rents to be paid monthly in advance. (M. C., sec. 1912.)

Sec. 2027. Leasing of boat privileges in park ponds.—The board of public improvements is hereby authorized and empowered to lease the privilege of keeping boats for hire on the ponds of the public parks of St. Louis to any private party for a term of one or more years, under rules and regulations drawn up by the park commissioner and approved by the board of public improvements. (Ord. 14435, sec. 1.)

Sec. 2028. Privileges of games, etc., in certain parks.—The board of public improvements is authorized and empowered to lease the privilege of keeping implements for the games of base ball, croquet and lawn tennis, and so forth, for hire at Forest, O'Fallon and Carondelet Parks; the locations for the games to be selected by the park commissioner. (*Ib.*, sec. 2.)

Sec. 2029. Proceeds of leases—how credited.—The receipts from the leases mentioned in the two preceding sections to be credited to the parks from which they were received. (*Ib.*, sec. 3.)

Sec. 2030. Commissioner to take charge of park donations.—The park commissioner is hereby authorized, with the approval of the board of public improvements, to accept and take charge of, for and on behalf of the city, all donations made to the public parks, places or squares of the city by private individuals or societies, and it is hereby made his duty to devote and apply such donations strictly to the purposes for which they were made. (M. C., sec. 1913.)

Sec. 2031. Sites for statues to be allotted.—He shall be authorized, with the approval of said board on the submission of proper plans and sketches, to allot such space of ground in any of the public parks places or squares as may be required for the erection of any monument, statue or other work of art or utility in commemoration of the services or beneficence of any person or society which they may offer to put up at their own expense. (M. C., sec. 1914.)

Sec. 2032. Sites improved by private donations—how designated.—The park commissioner shall have authority in certain cases, to officially designate certain places in the public parks, places and squares,

which have been improved by private donations, by the name of the donor, and he shall in all such cases file a copy of the articles or stipulations of donation with the city register. (M. C., sec. 1915.)

Sec. 2033. When park donations may be removed.—In case any public park, place or square, containing any monument, statue or other work of art or utility erected from private donations as aforesaid, shall hereafter cease to be the property of the city, the donor or his legal representatives shall have permission to remove the same from the premises with the consent of the park commissioner, previously obtained. (M. C., sec. 1916.)

Sec. 2034. Music in parks.—The park commissioner is hereby authorized, with the approval of the mayor, to provide music for the parks, between June first and October first, eighteen hundred and ninety-six, and every year thereafter, on such days and in such parks as shall be designated by the above officers, not exceeding seven entertainments in one week, of three hours' duration each, two of these to be held in the music pavilion in Forest Park and all, except those held on Sundays, to be held between the hours of seven p. m. and ten p. m. The music shall be provided by an orchestra or band of not less than twenty-five skilled musicians, all of whom must be registered voters of St. Louis. The above work shall be let by the park commissioner, subject to the approval of the mayor, to the lowest and best bidder, and it may be let in sections. Before the above work is let the mayor and park commissioner shall establish a schedule giving the name of each park in which music is to be given and the date of the same during said season, and bidders may compete for the music in any one or more or all the parks. Payment for the above work shall be made monthly on vouchers approved by the mayor and park commissioner, and ten per cent of each payment shall be reserved to secure the fulfillment of the contract. All questions with reference to the satisfactory performance of the work shall be determined by the mayor and park commissioner, whose decision shall be final and conclusive. The letting shall be advertised for ten days in the papers doing the city printing; provided, that for good cause the date or dates may be changed by the mayor and park commissioner. (M. C., sec. 1917.)

Sec. 2035. Penalty.—Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five and not exceeding five hundred dollars. (M. C., sec. 1918.)

CHAPTER 26.

OF PUBLIC PRINTING.

Sec. 2036. Procedure for letting of contract for public printing.—The register shall on the second Monday in May in each year hereafter, advertise in the newspapers published in the City of St. Louis, of a uniform daily circulation of over three thousand copies (so far as he may be informed thereof), a proposal for sealed bids in writing for doing the city printing, to be done in city newspapers of said daily circulation, for one year, one published in the English and one in the German language. The papers published in the English language bidding, shall also state in their bid at what cost and price they will print two hundred copies of the pro-

ceedings of the Municipal Assembly, as may be published in such papers, in pamphlet form, and furnish the same within two days after each meeting, to each house of the municipal assembly for distribution amongst its members. The advertisement shall state the size, character and name of the type to be used, the minimum length of the line, the minimum width of the column required, the character of measurement to be employed, the amount of deposit required to accompany each bid (which in no case shall be less than five hundred dollars, and which deposit shall be absolutely forfeited to the City of St. Louis in the event such bidder is awarded such contract and fails or refuses to execute the contract and give the bond as hereinafter required), and the place, day and hour of the opening of such bids, and shall be made [for] at least ten days next before such day. The bids shall be opened in the office of the register, and all bidders may be present thereat. No bids shall be considered in which there shall be an erasure or interlineation. In every case the printing shall be awarded to the lowest bidder. The register shall, without delay, report the bids and awards to the council. If the council reject any award the register shall proceed without delay, as above, to advertise for new bids for the kind of printing of the rejected award, and report as aforesaid upon the same, and so on until the council confirm the awards for all the aforesaid printing. In case any bidder to whom such public printing may be awarded fails or refuses, within ten days after such award, to properly and legally enter into the contract therefor and give the bond required by law, and also in case any bidder fails or refuses to perform the contract herein required, and the same is declared forfeited by the mayor, it shall be the duty of the register to immediately enter into a temporary contract and bond, to be approved by the mayor, for doing the city printing until such time as a new contract shall be made, as hereinafter provided, and advertise a proposal for sealed bids for doing the city printing in the manner herein provided, for such term or unexpired term, as the case may be, and shall award the contract to the lowest bidder; provided, however, that no bid shall then be considered or accepted from such bidder who has failed or refused to execute such contract and give such bond, or who has failed to carry out his contract and the same has been declared forfeited by the mayor. In such cases, if the council be in session, the register shall, without delay, report such bids and awards to the council, when the same proceedings shall be had thereon as herein specified. But if the council be not in session, the register shall award the printing to the lowest bidder, and shall enter into a temporary contract and require a temporary bond and immediately upon the reconvening of the council, shall report such bid, award, temporary contract and bond to the council, and thereupon the same proceeding shall be had as is herein required, and if the council confirm the award, a regular contract and bond, as now provided, shall be entered into in the manner and within the time and subject to the conditions hereof. If the council reject such award, the register shall proceed, without delay, to advertise for new bids in the manner herein set out. Every contract for printing in pursuance of any award shall specify the printing and the price therefor and require the doing thereof within a reasonable time, as the register may direct, or the law or ordinance providing for such printing may require. The printing meant in this article includes everything of labor, skill and materials for bringing the work to the condition for its intended use and purpose. If any bidder fails to perform the contract as herein required, the same shall be subject to forfeiture by the mayor. (M. C., sec. 1919.)

This section is pursuant to the provisions of the Charter, Art. XV, sec. 1. For printing contracts relating to state matters (judicial proceedings, etc.) see Rev. St. 1899, sec. 4692 et seq. set out herein in "Laws Specially Applicable to St. Louis," sections 1-4, page 78.

Sec. 2037. Publication of ordinances and public documents.—Every ordinance passed by the municipal assembly shall be published in the papers doing the city printing within five days after its approval. English papers, when bidding for the city printing, shall also state at what price they will furnish fifteen hundred printed copies of ordinances, as may be published in the newspapers, of a uniform size, suitable for binding in customary pamphlet form. The assembly shall cause an abstract of its proceedings to be published within forty-eight hours after the meeting, at which they were had; such abstract shall briefly state the substance of all petitions, memorials, remonstrances, motions, propositions, bills, resolutions and orders and the yeas and nays in full, whenever taken; also all communications from the mayor and other city officers, unless otherwise directed by the municipal assembly. No expense for printing the same documents the second time shall be incurred, except when ordered by a vote of two-thirds of the members-elect to the assembly, taken by yeas and nays. The annual message of the mayor shall be printed in the proceedings of one branch of the assembly only. The annual reports of the comptroller and other city officers shall be sent to the council, only, and shall not be printed in the proceedings of either house of the assembly, but shall be printed in pamphlet form, the number of copies to be determined by a majority of both houses of the municipal assembly by joint resolution. (M. C., sec. 1920.)

This section tracks the Charter: Charter, Art. XV, sec. 2; and see note thereto that the publication required does not apply to a general revision of the ordinances.

Sec. 2038. Job printing, how contracted for.—All job printing and binding shall be let by contract, and with that view the register is required, when the cost of the work approximates more than one hundred and less than two hundred dollars, to solicit bids from at least five different parties or firms in the job printing and binding business. When the cost of the work is estimated at two hundred dollars and over proposals shall be invited by advertisement in the papers doing the city printing. (M. C., sec. 1921.)

See Charter, latter part of Art. XV, sec. 1; and see note to said section.

Sec. 2039. Printing, proofs of, to whom submitted.—Proofs of all printing shall be submitted to the officer directly interested therein, and no publication or printing shall be done or paid for except when done in the manner herein prescribed. (M. C., sec. 1922.)

Same as Charter, Art XV, sec. 3.

Sec. 2040. German language—proposals for printing in, to include what.—All proposals for the city printing in the German language shall include the cost of translation, and all contracts for such printing shall be made to cover also all expenses for translation. (M. C., sec. 1923.)

Sec. 2041. Bond to be given.—The register shall require all contractors under this chapter to give good and sufficient bond for the faithful performance of said contract, to be approved by the mayor. (M. C., sec. 1924.)

Sec. 2042. Contracts—clause to be inserted in.—In the contracts for printing pamphlets, bills and other work where the composition is estimated by the page, a clause shall be inserted that every necessary fraction of a page may be counted as a full page, but no entire blank page shall be counted or charged for. (M. C., sec. 1925.)

Sec. 2043. Proceedings of assembly—to whom furnished.—Printed copies of the proceedings of both houses of the municipal assembly shall be promptly delivered by their respective sergeants-at-arms at the mayor's, comptroller's and other officers where needed in the transaction of business. (M. C., sec. 1926.)

Sec. 2044. City register to supervise printing.—All printing required by law, ordinance, the officers of the city or the municipal assembly, shall be done and made under the supervision of the city register. (M. C., sec. 1927.)

Sec. 2045. Imprint on printed matter required.—All books and pamphlets and other printed matter in book or pamphlet form shall bear upon the cover or title page thereof the imprint of the "Allied Printing Trades Council, St. Louis, Missouri;" all blanks, such as contracts, bonds, notices or deeds shall have legibly inscribed thereon the imprint of said Allied Printing Trades Council, of St. Louis, Missouri; all stationery, such as letter heads and envelopes, shall be procured from printers or stationers possessing authority to use the imprint of said label, but it shall not be necessary that the said label be imprinted on stationery of that character. (M. C., sec. 1928.)

This and the succeeding section are void as special legislation; they were so held to be in the case of *Haeussler vs. St. Louis* (No. 17526a in room 1 of Circuit Court) after full hearing on preliminary injunction; but the cause was subsequently dismissed before final hearing. These sections have been since that time disregarded by the city authorities in letting contracts.

Sec. 2046. Penalty—forfeiture, etc.—In case any person or persons, firm or corporation employed to do or furnish any of the foregoing work shall violate the provisions of the foregoing section, the city register is hereby authorized and empowered to cancel and forfeit such employment or the contract under which such work, or any of it, is done or furnished, and may relet the same in the manner provided for with respect to the original letting of such work; and the person, persons, firm or corporation whose employment or contract has been so canceled or forfeited shall be ineligible to bid upon or for any such work or stationery upon the reletting, and the difference in cost of doing such work or furnishing such stationery under the contract or employment so canceled or forfeited, and under such reletting, if any difference there shall be, may be sued for and recovered upon the bond given for the performance of such cancelled contract or employment. (M. C., sec. 1929.)

See preceding section.

CHAPTER 27.

OF RECORDER OF DEEDS.*

Sec. 2047. Recorder—qualifications, election and term.—The recorder of deeds of the City of St. Louis shall possess the qualifications prescribed in section ten, article four, of the charter of the City of St. Louis

*Charter provisions: Art. IV, sec. 1 (term of office). It is the Recorder's duty to deliver conveyances to President Board of Assessors: Chart., Art. V, sec. 21, and Rev. C., sec. 2097; and to Board Public Imp., Rev. C., sec. 1944. Duties as to recording plats: Chart., Art. VI, sec. 1.

for elective officers of said city, and he shall be elected by the qualified voters of said city at the general election when representatives are elected to the general assembly of the state, and shall hold his office for four years and until his successor is duly elected and qualified. His official term shall commence on the first of January next succeeding his election. (M. C., sec. 1930.)

Sec. 2048. Certificate of election to be given.—The registrar of the City of St. Louis shall give to the recorder a certificate of his election authenticated by the seal of the city. (M. C., sec. 1931.)

Sec. 2049. Bond to be given.—Before the recorder shall enter upon the duties of his office he shall give bond to the State of Missouri in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office, which bond, shall be approved by the mayor and council; said bond shall be signed by two or more securities who shall be holders of unincumbered real estate within the City of St. Louis. (M. C., sec. 1932.)

Sec. 2050. Office to be vacant on failure to give bond.—If the recorder neglect to give bond and qualify within twenty days after his election his office shall be deemed vacant, and the mayor shall by proclamation order an election to fill such vacancy for the unexpired term thereof, to be held upon some day named in such order, not less than twenty nor more than thirty days next after the issuing of the proclamation. (M. C., sec. 1933.)

Sec. 2051. Duties of recorder—regulations of office.—The recorder shall have charge and control of the real estate records and personality records of the City of St. Louis, and all papers, maps, plats, and other records pertaining to his office as established by law, and may enforce all needful regulations for their care, use and management not inconsistent with the laws of the State. No record shall be removed from the office except with the approval of the recorder or upon the formal order of some court, and all improper interference with said records, misuse of same, or making thereon any alteration, erasure, interlineation or other writing of any kind, without the consent and approval of the recorder, shall be considered a violation of this section and punishable as hereinafter mentioned. The use of pen and ink in said office, except by the recorder and deputies and clerks under his supervision, is forbidden except with the knowledge and consent of said recorder. All loud talking or other disturbance in said office during business hours is also hereby forbidden. (M. C., sec. 1934.)

Duties as to recording plats: Charter, Art. VI, sec. 1.

Sec. 2052. Recorder's salary.—The recorder shall receive a salary of four thousand dollars per annum. (M. C., sec. 1935.)

Sec. 2053. Collecting and paying over fees.—He shall collect all fees as prescribed by law, and pay the same into the city treasury daily. (M. C., sec. 1936.)

Sec. 2054. Employes.—He is authorized to appoint the following deputies, clerks and assistants: One chief deputy and five [six] deputies, one of whom shall be known as "releasing deputy," one marriage license clerk, one assistant marriage license clerk. Each of the above employes shall be empowered to administer oaths. One superintendent of index folio

department, one competent draughtsman, four [eight] comparers, [two indexers], one delivery clerk, one [two] janitor, one watchman of records, [one marriage indexer who shall be a competent stenographer], and such recording clerks in folio department as the business of this department may require. (Ord. 21569, amending M. C., sec. 1937.)

That part of the above sections 2054 and 2055 which is indicated in brackets, is not a part of the Revised Code, but is the amendment passed in ordinance No. 22883, approved March 13, 1907, too late to be included in the Revised Code. See this ordinance set out in the Appendix.

Sec. 2055. Same—salaries—number of recording clerks.—

The above named employes shall receive in full payment for their services the following salaries: The chief deputy, one hundred and seventy-five [two hundred] dollars per month; the deputies, each one hundred and twenty-five dollars per month; the superintendent of index and folio department, one hundred dollars per month; the draughtsman, one hundred dollars per month; the comparers, each ninety dollars per month; [the indexers, each one hundred dollars per month]; the delivery clerk, seventy-five dollars per month; the janitor, [janitors each] fifty dollars per month; the watchman of records, fifty dollars per month; the marriage license clerk, one hundred dollars per month; the assistant marriage license clerk, seventy-five dollars per month; the recording clerks shall be paid at the rate of five cents per folio of one hundred words. The number of recording clerks shall not exceed ten unless the increase of business of the office renders additional recording clerks indispensable, and all recording clerks in excess of ten shall be appointed only with the approval of the mayor. (Ord. 21569, amending M. C., sec. 1938.)

See preceding note.

Sec. 2056. Discharge of employes.—All of the above-mentioned employes shall be subject to a discharge at the pleasure of the recorder, who shall report the facts in writing to the mayor, provided the recorder shall not at any time keep employed in his office more clerks and assistants than the business of his office actually requires. (M. C., sec. 1939.)

Sec. 2057. Abstracter and indexer to be appointed.—The recorder is hereby authorized to employ in the recorder's office an expert abstracter and indexer, who shall keep the books of the abstract and index of deeds, in accordance with the provisions of section three thousand eight hundred and sixteen, Revised Statutes of Missouri of 1879, [R. S. 1899, sec. 9067], and perform such other duties as may be directed by the recorder of deeds. Said abstracter and indexer of deeds shall receive a salary of one hundred dollars monthly, payable out of appropriation for the recorder of deeds. Said abstracter and indexer of deeds may be recorder of deeds at any time. (M. C., sec. 1940.)

Sec. 2058. Penalty.—Any violations of the provisions of this chapter shall be considered a misdemeanor, and shall be punished as provided by law. (M. C., sec. 1941.)

Sec. 2059. General statutes to be complied with.—The recorder shall execute and carry out all provisions of the general statutes of Missouri relating to his office, and shall be responsible for all property in his charge. (M. C., sec. 1942.)

Sec. 2060. Stationery and furniture to be supplied.—The books, stationery and furniture necessary for said office shall be supplied

as prescribed in the charter and ordinances of the city for other departments. (M. C., sec. 1943.)

Sec. 2061. **Recorder to devote entire time to duties.**—The recorder shall devote his whole time during office hours to business of his office. (M. C., sec. 1944.)

CHAPTER 28.

OF REGISTER.*

Sec. 2062. **General duties and powers.**—The office of register is hereby created, and the duties thereof shall be as follows: The register shall have the custody of the city seal, the public records, the original rolls of ordinances of the municipal assembly, all original contracts, deeds and certificates relative to the title of any property of the city, all official penal, indemnity or security bonds, and such other records, papers and documents of value as are not required to be deposited with any other officer, all of which shall be registered by numbers, date and contents; he shall attest all public instruments or official acts of the mayor by his signature and the seal of the city, and shall also certify under his hand and the seal of the city all copies of such original documents, records and papers in his office as may be required by any officer, and he shall provide copies of all contracts in his office for the auditor and comptroller when requested so to do by them. The register shall charge all persons, except members of the municipal assembly and city officers, for certified copies of ordinances, records or other papers on file in his office, a fee of ten cents for every one hundred words, and for every certificate under seal an additional fee of fifty cents; said fees shall be paid daily to the city treasurer, who shall issue triplicate receipts therefor, one of which shall be filed with the comptroller, one with the auditor and the third shall be retained by the register. He shall have general supervision of the public printing, and shall see that it is executed as hereinafter provided, and shall cause to be printed, filed and preserved in his office all ordinances passed by the assembly; shall register and preserve in his office all contracts, the oaths or affirmations, taken by the city officers, and may administer such oaths or affirmations. He shall appoint such clerks as he may require, subject to the approval of the mayor. He shall do and perform all duties now required of the clerk of the county court by any general or special law not inconsistent with the scheme and charter and shall exercise the same power, authority and jurisdiction as said clerk for the proper execution of all laws of this state. (M. C., sec. 1945.)

General duty of Register: Chart., Art. IV, sec. 23; Scheme, sec. 9; as to public printing, see R. C., Chap. 26, secs. 2036 *et seq.*; execution, numbering and filing of contracts with Register, see note to Chart, Art. XVI, sec. 7. It is the duty of

*Charter provisions: Art. III, secs. 25, 28; Art. IV, sec. 23 (especially), and also Art. V, secs. 5, 30; Art. XV, secs. 1, 2; Art. XVI, sec. 7; Scheme, secs. 9, 15, 17.

Duties as to Dentistry: See Laws Mo. 1905, p. 217, sec. 8535. Duties formerly of County Clerk to be performed by Register: Rev. St. 1899, p. 2562, sec. 4 ("Laws Specially Applicable to St. Louis," sec. 372), R. S. 1899, sec. 4160, subd. 18, and see herein next succeeding note. Duties as to Liquors respecting County Clerk cast on Register: See R. S. 1899, p. 2563, sec. 10. Duties concerning Justices of the Peace and Constables, formerly of County Clerk, now in Register: Sec. 6536 of R. S. 1899 ("Laws Specially Applicable to St. Louis," sec. 202).

the Register to perform the duties of a county clerk in respect of the general laws of the State: State ex rel. vs. Tracy, 94 Mo. 217; Rev. St. 1899, p. 2562, sec. 4; Statutes relating to county clerks to be construed as applying to register in St. Louis, where applicable: R. S. 1899, sec. 4160, subdivision 18 ("Laws Specially Applicable to St. Louis," sec. 373; see also 372); R. S. 1899, page 2563, sec. 10; so as to duties respecting Justices and Constables formerly performed by County Clerk: R. S. 1899, sec. 6536. See note introductory to Charter, Art. I: "General considerations respecting the Charter—transfer of old county functions," etc., and cases and references there cited.

Sec. 2063. To issue all blank licenses and forms.—All blank licenses, tickets, receipts, permits, certificates or other blank forms which are intended to facilitate or simplify the collection of the revenue, shall be issued by the register under the seal of the city, and delivered and charged to the comptroller, who shall countersign and deliver them to the proper officers respectively, and take duplicate receipts therefor, one of which shall be filed with the auditor, and the register shall perform such other duties as may be required of him by law or ordinance. (M. C., sec. 1946.)

Charter, Art. V, sec. 5.

Sec. 2064. Deputy register, duties of.—The office of deputy register is hereby created. The deputy register shall be appointed by the register, by and with the approval of the mayor, and shall perform such duties as the register shall direct, and he shall also perform the duties of register in case of the absence or sickness of the register, and the register and his securities shall be responsible for the official acts of the deputy register. (M. C., sec. 1947.)

Sec. 2065. Salaries, register and deputy.—The annual salary of the register shall be three thousand dollars, payable monthly, and the annual salary of the deputy register shall be twenty-one hundred dollars, payable monthly. (M. C., sec. 1948.)

Sec. 2066. Salaries of clerks.—The salaries of clerks in the register's office shall be as follows: Two clerks at twelve hundred dollars each per annum; one clerk at nine hundred dollars per annum; and all other clerks and employes employed permanently or temporarily at the rate of seven hundred and fifty dollars each per annum, all of said salaries payable monthly. The register shall prescribe such regulations defining their duties and for their government as may be necessary. (M. C., sec. 1949.)

Sec. 2067. Register to give bond.—The register shall give to the city a bond for the faithful performance of his official duties in the sum of ten thousand dollars, which bond shall be given at the time provided by the charter, and shall be approved of by the mayor and the council. (M. C., sec. 1950.)

Sec. 2068. Place of deposit of bond.—The official bond of the register of the City of St. Louis, required by law, shall be deposited with the comptroller for safe keeping. (M. C., sec. 1951.)

Sec. 2069. City seal—form of and place of deposit.—The city seal shall be in custody of the register and it shall be of a circular shape, one and a half inches in diameter with a device engraved thereon of a steamboat carrying a United States flag, surmounted with a scroll inscribed with the words, "The common seal of the City of St. Louis," in Roman capitals engraved upon the face thereof. No impression of such seal to any contract or other writing shall have any validity or binding obligation upon the city unless such impression be accompanied by the attestation and signature of the register, and then only in case authorized by law and ordinance. (M. C., sec. 1952.)

See Charter, Art. IV, sec. 23.

REVENUE DEPARTMENT.

Chapter 29.	Of assessment of property.	Chapter 30.	Of license collector.
Art. I.	Of board of assessors.	Chapter 31.	Of subjects and objects of license.
Art. II.	Of board of equalization.	Chapter 32.	Of collector.
Art. III.	Of taxes.		

CHAPTER 29.

OF ASSESSMENT OF PROPERTY.

ART.	I. Of board of assessors.
	II. Of board of equalization.
	III. Of taxes.

ARTICLE I.

OF BOARD OF ASSESSORS.*

Sec. 2070. **Board of assessors created.**—There is hereby created a board of assessors, consisting of a president and one assessor of each assessment district, as now constituted, or which may hereafter be established by the municipal assembly. (M. C., sec. 1953.)

Sec. 2071. **Bonds of president and district assessors.**—The president of the board and each of the district assessors, before entering upon their official duties, shall give bond to the state, to the satisfaction of the mayor, with three or more solvent securities, freeholders of the city, the said president in the sum of twenty-five thousand dollars, and the district assessors each in the sum of twenty-five hundred dollars, conditioned for the faithful performance of the duties of their office, which bonds shall be executed in duplicate, one of which shall be forwarded to the state auditor, and the other be deposited with the register of the City of St. Louis. (M. C., sec. 1054.)

Chart., Art. V, sec. 16.

Sec. 2072. **Qualifications of members of board.**—The president of the board of assessors shall be of the age of at least thirty years, and have been a resident of the city for at least seven years next before his qualification; and each district assessor shall have been a resident of the city for at least five years next before his qualification or competent for his duties from actual service as an assessor of real estate in the City of St. Louis for taxation. (M. C., sec. 1955.)

ib. V, sec. 17.

Sec. 2073. **Appointment of deputies and clerks.**—The president of the board of assessors is hereby authorized to appoint, with the approval of the mayor, one chief deputy, two deputies of the first class, two

*See Charter, Art. V, secs. 15 to 23, and notes thereto.

deputies of the second class, and ten deputies of the third class, one abstract clerk, one principal draughtsman, one assistant draughtsman, one second assistant draughtsman, and such additional clerks as may be absolutely necessary for the performance of the work of the office; provided that the number of such additional clerks shall not exceed six during the period from the first day of September to the first day of January, and twenty-one from the first day of January to the first day of September in each year, except in case of emergency, when an increase may be authorized by the mayor. (M. C., sec. 1956.)

Ib. V, sec. 18.

Sec. 2074. Clerks as deputies.—The president may authorize such clerks as may be necessary to act as deputies, but they shall receive no additional compensation while so acting. (M. C., sec. 1957.)

Sec. 2075. President may remove employees.—The president of the board of assessors shall have power to remove any of the clerks, draughtsmen or other employes of the assessor's office, excepting district assessors, and may, if necessary, appoint others in their place, subject, however, to the provisions of this article. (M. C., sec. 1958.)

Sec. 2076. President's salary.—The president of the board of assessors shall receive a salary of thirty-five hundred dollars per year, payable monthly. (M. C., sec. 1959.)

Sec. 2077. Salary of chief deputy assessor.—The compensation of the chief deputy assessor shall be at the rate of two hundred dollars per month, payable monthly. (M. C., sec. 1960.)

Sec. 2078. Compensation of district assessors.—The several district assessors shall receive an annual compensation of eighteen hundred dollars, to be paid in monthly installments. (M. C., sec. 1961.)

Sec. 2079. Salaries of deputies—clerks and draughtsmen.—The compensation of the deputies, draughtsmen and clerks shall be as follows: Deputies of the first class, one hundred and fifty dollars per month, payable monthly; deputies of the second class, one hundred and twenty-five dollars per month, payable monthly; deputies of the third class, one hundred dollars per month payable monthly; abstract clerk, one hundred and twenty-five dollars per month, payable monthly; principal draughtsman, one hundred and twenty-five dollars per month, payable monthly; assistant draughtsman, one hundred dollars per month, payable monthly; second assistant draughtsman, eighty-three dollars thirty-three and one-third cents per month, payable monthly; all other clerks, eighty-three dollars thirty-three and one-third cents per month, payable monthly; excepting such additional clerks as may be employed during the period from the first day of January to the first day of September, who shall receive compensation at the rate of seventy dollars per month, payable monthly. (M. C., sec. 1962.)

Sec. 2080. Pay-rolls, to be certified to auditor.—The president of the board of assessors shall certify to the auditor the pay-rolls of his department, whereupon the auditor shall draw his warrants upon the treasury, charging the same to appropriation for assessment of revenue. (M. C., sec. 1963.)

Sec. 2081. Duties of president—may administer oaths—tax returns—assist in appeals desired from district assessor—hours—information.—It shall be the duty of the president of the board to superintend the work of the district assessors, and the assessment of the entire city; to see that they faithfully discharge their duty, and as far as possible make the assessment uniform and equal throughout the city. He shall take the entire charge of the assessor's office, and all maps, plats, books, papers, furniture and other property belonging to the said office. He shall be accountable for all such plats, and shall not permit any one of them, under any pretense whatever, to be removed from the office, except those which may be required by the district assessors for the assessment of their allotted districts. He shall use all proper care and diligence to preserve all maps, plats, books and papers belonging to the office from injury, and shall hold the district assessors responsible for the return in good condition of all plats that may be furnished to them. He shall alter and correct the office plats, and all plats used by the district assessors as required by law. He shall furnish the district assessors with all plats, blanks, stationery, instructions, and all information that may be needed by them for the proper assessment of their respective districts. He shall receive the return of property of those upon whom the district assessors have ordered notice except in those cases where the district assessors make person service and shall administer the oath required by law. He may appoint one or more of the clerks in his office as deputies, and he or they shall be authorized to administer the oath. He shall furnish paper, blanks, and all necessary information to persons desiring to make appeal from the assessment of the district assessor. He shall in person be at his office every working day, during office hours, except when engaged in his duties as assessor, or absent on leave, and shall furnish information on all matters pertaining to the assessment of property. (M. C., sec. 1964.)

The president of the board shall cause to be prepared plats covering all tracts and lots of land in the city: R. S. 1899, sec. 9169.

Sec. 2082. Qualification and duties of chief deputy.—The chief deputy shall be, in all respects, qualified by attainments and experience to conduct the operations of the office, and shall perform all duties devolved upon the president of the board by law or ordinance during the absence of the president from the office. (M. C., sec. 1965.)

Sec. 2083. Assessments, when to be made—report, etc.—It shall be the duty of district assessors to assess the property within the districts for which they are appointed under the direction and superintendence of the president in the manner provided by law. They shall commence their assessment on the first day of June in each year, and complete the same and make their final report to the president on or before the first Monday in January following. Each report shall be verified by the affidavit thereto of the assessor making it, that he made the assessment contained in his report impartially and correctly to the best of his ability and judgment, and uninfluenced by fear of, or favor by, or towards any one. (M. C., sec. 1966.)

Chart., Art. V, sec. 16.

Sec. 2084. Assessment district established.—The City of St. Louis is hereby laid off in ten assessment districts and the boundaries of the same are hereby established as follows:* (M. C., sec. 1967.)

*The boundaries of all of the districts were altered by ord. 22930, approved March 21, 1907 (after the approval of the Revised Code, and hence too late to appear therein). See this ordinance set out in full in Appendix.

Sec. 2085. **First district.***—Shall embrace all that territory bounded on the north by Cherokee street from Mississippi River to Grand avenue and McDonald avenue from Grand avenue to Bent avenue, thence north along west line of Bent avenue to Arsenal street, thence west along Arsenal street to Tower Grove avenue extended south through Tower Grove Park, thence north through Tower Grove Park and Tower Grove avenue to Magnolia avenue, thence west along Magnolia avenue to Kingshighway boulevard, thence west along Columbia avenue to its junction with Old Manchester road, thence west along Old Manchester road to city limits of eighteen hundred and seventy-six; east by the Mississippi River; south and west by city limits of eighteen hundred and seventy-six. (Ord. 21025, amending M. C., secs. 1968-1977.)

Sec. 2086. **Second district.***—Bounded on the north by Trudeau street and North Trudeau street from Mississippi River to Broadway, and Shenandoah avenue from Broadway to Tower Grove avenue; on the east by the Mississippi River; on the south by Cherokee street and McDonald avenue; on the west by Bent avenue and Tower Grove avenue and its extension through Tower Grove Park to Arsenal street. (*Ib.*)

Sec. 2087. **Third district.***—Bounded on the south by the north line of the Second district; north by Miller street from Mississippi River to Broadway and Park avenue, from Broadway to Tower Grove avenue; on the east by the Mississippi River, and on the west by Tower Grove avenue. (*Ib.*)

Sec. 2088. **Fourth district.***—Bounded on the south by the north line of the Third district; on the east by the Mississippi River; on the north by Clark avenue from the Mississippi River to junction of Clark avenue with Manchester avenue, thence west along Manchester avenue to south line of Clayton avenue, thence west along Clayton avenue to Sarah street, thence south along Sarah street to south line of Manchester avenue, thence west along Manchester avenue to Tower Grove avenue, thence south along Tower Grove avenue to Park avenue, point of beginning. (*Ib.*)

Sec. 2089. **Fifth district.***—Bounded on the south by the north line of the Fourth district; on the north by Lucas avenue from Mississippi River to Grand avenue and Delmar boulevard from Grand avenue to Sarah street; on the east by the Mississippi River; on the west by Sarah street. (*Ib.*)

Sec. 2090. **Sixth district.***—Bounded on the south by the north line of the Fifth district; on the north by Mullanphy street from Mississippi River to Broadway and Cass avenue, from Broadway west to its junction with Easton avenue, thence west along Easton avenue to Sarah street; on the east by the Mississippi River; on the west by Sarah street. (*Ib.*)

Sec. 2091. **Seventh district.***—Bounded on the south by the north line of the Sixth district; north by St. Louis avenue from Mississippi River to Tenth street, Hebert street from Tenth street to Prairie avenue, and Ashland avenue from Prairie avenue to Sarah street; east by the Mississippi River, and west by Sarah street. (*Ib.*)

*The boundaries of each of the ten districts were changed by ordinance 22930, approved March 21, 1907, after the passage of the Revised Code. See ordinance set out in Appendix.

Sec. 2092. Eighth district.*—Bounded on the south by the north line of the Seventh and Eighth districts; east by the Mississippi River; north and west by city limits of eighteen hundred and seventy-six. (*Ib.*)

Sec. 2093. Ninth district.*—Bounded on the south by the north line of the Tenth district; east by Sarah street from Finney avenue to Ashland avenue, and Clay avenue from Ashland avenue to Natural Bridge road; north by Natural Bridge road from Clay avenue to city limits of eighteen hundred and seventy-six, and on the west by city limits of eighteen hundred and seventy-six. (*Ib.*)

Sec. 2094. Tenth district.*—Bounded on the south by the north line of First district; north by Finney avenue from Sarah street to Taylor avenue, thence west along center line of Lewis place to Walton avenue, Fountain avenue from Walton avenue to Kingshighway boulevard, Cabanne avenue from Kingshighway boulevard to Union boulevard, Maple avenue, from Union boulevard to city limits of eighteen hundred and seventy-six; east by western line of Districts Two, Three, Four, Five and Six, and west by city limits of eighteen hundred and seventy-six. (*Ib.*)

Sec. 2095. Additional duties of district assessors—notice of difference in tax assessments.—All district assessors appointed by the mayor and confirmed by the council shall hold their office in accordance with section two, article four, of the charter; shall be under the control of the president of the board of assessors; shall obey all orders emanating from said officer, and shall, in addition to all other duties prescribed by charter and ordinances and after the first of January in each year, and until the adjournment of the board of equalization, continue to give their services to the city for the purpose of revising their assessment, equalizing real estate and personal property, examining the returns made in the office by the tax-payers, et cetera; and should there be a material difference in the values of personal property as made by the property holder and the district assessor, it shall be the duty of the district assessor to at once notify the owner or agent that such difference exists, and that he may be heard, giving time and place of such meeting, with the object in view of a more efficient and complete assessment. After the adjournment of the board of equalization and until they commence their assessment, it shall be the duty of the district assessors to review their respective districts, collecting useful data for their next assessments, such as compiling an abstract of all bona fide sales, examining buildings in course of erection, or other desirable information concerning personal property. (M. C., sec. 1978.)

The assessor cannot raise the return made by a property owner without notice to him: State ex rel. vs. Spencer, 114 Mo. 574.

Sec. 2096. Notice of completion of books to be given.—As soon as the assessment books are completed, the president of the board shall give one week's published notice in the daily newspapers, one of which shall be printed in German, that said books are open for inspection, and stating the time when the board of equalization will be in session. (M. C., sec. 1979.)

Charter, Art. V, sec. 30.

Sec. 2097. Recorder of deeds to deliver deeds, etc., to president.—The recorder of deeds of the City of St. Louis is hereby required to

*The boundaries of each of the ten districts were changed by ordinance 22930, approved March 21, 1907, after the passage of the Revised Code. See ordinance set out in Appendix.

deliver to the president of the board of assessors, from day to day, when required of him, and the day after the same shall have been recorded and compared, all deeds and other instruments in writing, filed in his office, by which any change in ownership is made in any of the real estate of the City of St. Louis, and the president of the board shall, without unnecessary delay, make such changes upon the plats in his office as said deeds and other instruments may require, and forthwith return such deeds and other instruments to said recorder. (M. C., sec. 1980.)

Same as Charter, Art. V, sec. 21.

Sec. 2098. Costs and expenses of assessment, how met.—All the costs and expenses of the assessment shall be allowed and paid by the City of St. Louis in the same manner as other demands against the city are allowed and paid, and when the aggregate for each year's assessment shall have been ascertained, the auditor of St. Louis shall certify the same to the state auditor, whose duty it shall be to draw his warrant in favor of the City of St. Louis for one-half of said assessment as provided by law. (M. C., sec. 1981.)

Same as Charter, Art. V, sec. 23.

ARTICLE II.

OF BOARD OF EQUALIZATION.*

Sec. 2099. Board of equalization—duties and office of—appeals to.—There is hereby established a board of equalization, consisting of the president of the board of assessors, who shall be president thereof, and four discreet and experienced real estate owners of the City of St. Louis, of a prior residence therein of ten years, who shall be appointed by the judges of the Circuit Court of the Eighth Judicial Circuit, on the second Monday of March annually. The duty of said board shall be to adjust, correct and equalize the valuation of real and personal property in said city. It shall meet at ten o'clock in the city assessor's office on the third Monday in March annually, and shall remain in session for four weeks, if business requires it, and no longer. Said board shall hear and determine all appeals in a summary manner; they shall also do and perform all other duties imposed on or required of them by section twenty-four of article five of the city charter. (M. C., sec. 1982.)

Sec. 2100. Compensation of board and carpenter.—The compensation of each of the members of said board (excepting the president thereof) shall be five dollars for each day's actual service as a member of said board; but no compensation shall be given to members for days they may be absent from the regular meeting of said board. The compensation of the carpenter and practical builder shall be eight dollars for each day's actual service while he is employed by the board. (M. C., sec. 1983.)

*See Charter, Art. V, secs. 24 to 29, and authorities there cited. If the assessed owner does not appeal to the board, as provided by law, he can not be heard to complain so long as his property is clearly taxable under some law: *State ex rel. vs. Tobacco Co.*, 140 Mo. 218; *St. Louis, etc., Ins. vs. Charles*, 47 Mo. 462. The board of equalization or appeals acts judicially, its orders are not impeachable collaterally, except for fraud or lack of jurisdiction: *State ex rel. vs. Valle*, 122 Mo. 33; hence certiorari is the proper mode of reviewing its proceedings: *State ex rel. vs. Dowling*, 50 Mo. 134; *Ward vs. Board*, 135 Mo. 309. The right to appeal to the board of equalization is equivalent to "a day in court," so to speak: *State ex rel. vs. Cummings*, 151 Mo. l. c. 59; *State ex rel. vs. Seahorn*, 139 Mo. l. c. 609-610.

Sec. 2101. Qualifications of builder—oath and duties.—

The carpenter and practical builder, who may be employed by the board, shall possess the qualifications of a member thereof, and be experienced as a carpenter and practical builder of public and private edifices, and before entering on his duties he shall take and subscribe to an oath before the city register that he will faithfully and impartially estimate the cash value of each building referred to him by the board; he shall be in attendance every day during the session of the board, except when absent on duty in reference to matters referred to him. (M. C., sec. 1984.)

Sec. 2102. Pay-roll of board, to show what.—

Immediately after the final adjournment of the board of equalization in each year, the president of the board of assessors shall make out and certify a pay-roll, and state therein the number of days actually served by each member of the board, and the number of days served by the carpenter and practical builder employed by them, and the total amount each of them is entitled to receive as compensation in full for their services under this article; he shall send said pay-roll to the city auditor, who shall draw his warrant on the city treasurer for the amount, and charge it to the account of assessment of the revenue. (M. C., sec. 1985.)

ARTICLE III.**OF TAXES.**

Sec. 2103. Tax levy annually.—For the support of the city government, payment of the city debt and interest thereon, and for the improvement of the city, a tax shall be levied annually, to be fixed by ordinance, upon all property made taxable by the laws of the state, within the limits of the city. (M. C., sec. 1986.)

See Charter, Art. V, and notes thereto. The percentage of taxation is to be fixed by ordinance; Chart., Art. V, sec. 27.

CHAPTER 30.**OF LICENSE COLLECTOR* AND LICENSE REVISION.**

*By the act of the General Assembly (Session Laws 1901, pp. 80 to 82, set out herein, on pages 167-168, "State Laws Specially Applicable to St. Louis," Chap. 17, secs. 382-392), the duties of the license *commissioner* were and now are required to be performed by a license *collector*. This act creates the office of License Collector in cities of over 300,000, provides for the election of such officer, regulates his salary, and that of his deputies and employes, defines his and their duties and provides that the city collector or license commissioner turn over the books and information pertaining to these matters to the license collector thus created. The office of license commissioner is therefore extinguished and that of license collector substituted therefor, so that the former provisions of the ordinances in effect apply to the license collector. By section 7 of the act of 1901 it is provided that "every person, firm, association or corporation, shall owe to the license collector all and every duty now due by law or ordinance to the city collector of the revenue or to the license commissioner, or other city officer of such city, with respect to the assessment, levy, issue, transfer or revoking of licenses, or license taxes, for any purpose whatever; all and every duty of said city collector, license commissioner and other officer of such city imposed by law or ordinance with respect to the assessment, levy, issue, transfer or revoking of license or license taxes for any purpose whatever is hereby transferred to the office of license collector created by this act." Since this act operates to super-

secede all inconsistent ordinances, sec. 1 thereof displaces M. C., sec. 1987, now R. C., 2104, (which had created the office of commissioner); sec. 2 (providing for the election of the license collector, his term, bonds, etc.) supersedes inconsistent provisions of the Mun. Code contained in sec. 1988, now R. C. 2105; M. C., 1999, now R. C. 2116, etc., on the same subjects, as well as M. C., sec. 2002, now R. C. 2122, referring to location of his office in City Hall. Sec. 3 provides that all licenses except water, dramshop and boat or wharfage licenses be issued by the license collector, thereby superseding M. C., sec. 1989, or R. C., sec. 2106, which conferred the like powers on the commissioner; said sec. 3 also supersedes M. C., sec. 1992, or R. C., sec. 2109, as to revocation of licenses, and M. C., sec. 1998, R. C., sec. 2115, upon the subject of prevention of carrying on businesses, etc., without licenses, and reporting such violations to police court. Sec. 5 of the act supersedes similar provisions in M. C., secs. 1990 and 1991, being Rev. C., secs. 2107, 2108, on subject of application, statement, form, payment in advance, receipts, etc. Sec. 6 of the act supersedes M. C., sec. 1993, or R. C., sec. 2110, with respect to the record and classification of licenses, with which it is nearly identical, except as to the name of the officer. And sec. 4 of the act (providing for turning over by city collector or license commissioner to the new officer of books, papers, etc., and imposing on the latter the duty of collecting all information necessary to taxing, levying and issuing licenses, etc.) supersedes M. C., sec. 1994, or R. C., 2111; sec. 7, above quoted, displaces M. C., sec. 1997, or R. C., 2114; sec. 8 supersedes M. C., sec. 2003, or R. C., 2123, with which it was identical; and sec. 9, providing for employes and their salaries, displaces M. C., secs. 2000, 2001, or R. C., 2117 and 2118. Secs. 2004 and 2005, or R. C., 2124 and 2125, are also set aside by the effect of the new act.

It is thought best not to undertake to omit from this revision these superseded provisions, since they have not been formally repealed by the Municipal Assembly, and possibly opinions may not always coincide as to the extent of their extinction by the new statute; hence they are retained and such sections as it is thought are superseded are indicated by being enclosed in brackets, with a notation of the statutory sections with which they are supposed to be incompatible.

Sec. 2104. [Office of license commissioner created.—There is hereby created the office of license commissioner.] (M. C., sec. 1987.)

Annulled by force of Acts 1901, p. 80, secs. 1, 7. See preceding note.

The fact that an ordinance misdescribes the license collector as city collector (imposing duties cast by the statute on the former), where it is obvious that the former is intended, there being no officer corresponding to the one so designated, will not avoid the ordinance as in conflict with the act of 1901. *St. Louis vs. Grafeman Dairy Co.*, 190 Mo. 492, 505.

Sec. 2105. [License commissioner—appointment and term.—On or after April fourteenth, one thousand eight hundred and ninety-seven, and every four years thereafter the mayor shall appoint, subject to the approval of the council, a license commissioner, who shall hold his office for four years and until his successor shall be appointed and qualified.] (M. C., sec. 1988.)

Superseded by Acts 1901, p. 80, sec. 2.

Sec. 2106. [All licenses, except, to be issued by.—The license commissioner shall have exclusive authority in the City of St. Louis to issue all licenses and receipts for license taxes, except water, dramshop and boat or wharfage licenses.] (M. C., sec. 1989.)

Superseded by Acts 1901, p. 80, sec. 3.

Sec. 2107. [Application for license—statement as to amount.—Any person desiring to obtain a license or to pay a license tax shall make application to the license commissioner, accompanying it with such statements and affidavits as may now or hereafter be required by law or ordinance. The license commissioner, as soon thereafter as practicable, shall give to the applicant a statement in writing, that upon the payment of

§. . . . (stating the amount of the license tax or tax required by law or ordinance), a license or tax receipt as the case may be, will be issued to such applicant.] (M. C., sec. 1990.)

Superseded by Acts 1901, p. 81, sec. 5.

Sec. 2108. [**Payment of amount of license prior to issuance.**—Upon receiving the statement mentioned in the preceding section, the applicant shall pay to the city collector the amount named in such statement, taking therefor and delivering to the license commissioner duplicate receipts, one of which shall be filed with the city comptroller, and the other shall be filed with the license commissioner, who shall then issue the license or tax receipt to the applicant for the period required by law or ordinance.] (M. C., sec. 1991.)

Superseded by Acts 1901, p. 81, sec. 5.

Sec. 2109. [**Revoking license.**—The license commissioner shall have authority to revoke any license by him granted, if the person to whom the license has been issued shall have been convicted of the violation of any of the provisions of the laws or ordinances relative to such licenses.] (M. C., sec. 1992.)

Now governed by Acts 1901, p. 80, sec. 3.

Sec. 2110. [**Record and classification of licenses.**—The license commissioner shall keep a separate record for each kind of license or tax receipt which he is authorized to issue, in each of which shall be recorded the names of all applicants for such licenses, the place at which the applicant is permitted to conduct the business authorized, if the license is for such purpose, otherwise the place of business or residence of the applicant, and the date of the issuance of the license, all of which shall be public and open to the inspection of any citizen who desires to inspect the same. He shall also keep all statements and affidavits furnished him, which shall not be public but shall be open to the mayor, comptroller, and of such officers as may be provided by ordinance now or hereafter.] (M. C., sec. 1993.)

Now governed by Acts 1901, p. 81, sec. 6.

Sec. 2111. [**Duties of license commissioner.**—It shall be the duty of the license commissioner immediately after taking charge of his office to obtain from the collector, and it is hereby made the duty of the collector, to transfer to said license commissioner, all books, papers, data and blanks relating to the assessing, levying, issuing, transferring and revoking of licenses and license taxes. The license commissioner shall at once proceed and obtain a complete list of all persons, firms, associations and corporations who are required under the laws or ordinances, to obtain a license or pay a license tax, and he shall collect all information which may be necessary for the proper assessing, levying and issuing of licenses and license taxes. Such lists and such information shall be kept in proper books, and shall be changed from time to time to accord with changes in the facts; and it shall be the duty of the license commissioner to keep such lists and statements at all times as nearly complete and correct as possible.] (M. C., sec. 1994.)

Acts 1901, p. 81, sec. 4.

Sec. 2112. **Board of license revision.**—There is hereby established a board of license revision, consisting of three discreet and experienced real estate owners of the City of St. Louis, of a prior residence therein

of ten years, who shall be appointed by the council in the month of May, annually. It is hereby made the duty of said board to review, adjust and correct the lists of persons who are to pay licenses and license taxes in said city. Said board shall meet on the third Tuesday of June annually, and shall remain in session for four weeks, if business requires it, and no longer. Said board shall hear and determine all appeals in a summary manner, shall review, adjust and correct the license and license tax books accordingly, shall determine as far as possible whether all persons have been listed who are required to have a license or pay a license tax, and whether all persons have made correct returns where such returns are required by law or ordinance in connection with licenses and license taxes, and to this end shall add or strike off names. It is hereby also made the duty of said board to carefully examine all bonds which have been given to the collector under the provisions of the laws and ordinances relating to licenses and license taxes, and before final adjournment to report in writing to the mayor any and all bonds which are not in due form of law, or of whose solvency (there) is any reasonable doubt, and also a list of all cases where the collector has failed, improperly, to require a bond to be filed. It is hereby made the duty of the collector to render such assistance and to perform such services in connection herewith as the said board may direct, and all the books and papers in the collector's office shall be open to the members of the board of license revision. The said board shall have power to send for persons or papers and to compel the attendance of witnesses, and to this end the marshal of the city shall execute such process as may be issued by it. The majority of said board shall constitute a quorum, and a majority shall determine all matters of appeal or of revision or correction of assessment. The license commissioner [now license collector] shall personally attend all meetings of such board, and shall render such assistance and perform such services as the said board may direct. The members of such board, before entering upon the duties of their office, shall take and subscribe an oath before the city register similar to that required of all city officers. (M. C., sec. 1995.)

The provisions requiring bond in many cases of vehicle licenses have been repealed, so that to that extent the provision in this section is obsolete. See note to R. C., secs. 1817 to 1820.

Sec. 2113. Compensation of members of board.—The compensation of each of the members of said board shall be ten dollars for each day's actual service as a member of said board, but no compensation shall be given to members for days they may be absent from the regular meeting of said board. Immediately after the final adjournment of the board of license revision in each year, the license commissioner [license collector] shall make out and certify a payroll, and state therein the number of days actually served by each member of the board and the total amount each of them is entitled to receive as compensation in full for his services; said amount shall be charged to appropriation for license commissioner's [license collector's] office. (M. C., sec. 1996.)

Sec. 2114. [Transfer of duties to license commissioner.]—Every person, firm or corporation shall owe to the License Commissioner all and every duty now due to the Collector with respect of the assessment, levy, issue and transfer of licenses or license taxes for any purpose whatever; and all and every duty of the Collector with respect to the assessment, levy, issue, transfer or revoking of licenses or license taxes for any purpose whatever, is hereby transferred to the License Commissioner. The duty imposed on the Mayor in section one thousand five hundred and

seventy-six, of ordinance number seventeen thousand one hundred eighty-eight, is hereby transferred to the License Commissioner. Under the authority of section thirty-four of the Scheme, every person, firm or corporation shall owe to the License Commissioner with respect to the assessment, levy, issue or transfer of license taxes or licenses for any purpose whatever in the City of St. Louis, all and every duty due to the County Court, the Clerk of the County Court or the County Collector, as provided in chapters fourteen, sixteen, twenty-four, one hundred and six, one hundred and eleven and one hundred and twenty-five of the revised statutes of Missouri for one thousand eight hundred and eighty-nine; and the duties of the county court, the clerk of the county court and the county collector in said chapters with reference to the assessment, levy, issue, transfer or revoking of licenses or license taxes for any purpose whatever in the City of St. Louis are hereby transferred to the license commissioner.] (M. C., sec. 1997.)

This section is of course superseded. It provided for the conditions on transfer of the old duties from the old ordinance license collector to the license commissioner. The latter in turn was abolished when the statutory license collector in turn displaced the ordinance, license commissioner. See note to article heading.

Sec. 2115. [Police to report violations—license commissioner to report and secure arrests and convictions.]—It shall be the duty of the police to prevent any persons carrying on a business or object for which a license is required without having a license for that purpose, and they shall report to the license commissioner [now license collector] all violations of the laws and ordinances relating to licenses and license taxes. The license commissioner [now license collector] shall report to the police all persons who fail to take out the proper license or pay the license tax, and the police shall cause the arrest and conviction of such offenders.] (M. C., sec. 1998.)

See Acts 1901, p. 80, sec. 3.

Sec. 2116. [Salary and bond of license commissioner.]—The license commissioner shall receive a salary of four thousand dollars per annum, payable monthly. He shall give bond to the city conditioned that he will faithfully perform all the duties of his office according to law and ordinance. Such bond shall be in the sum of fifty thousand dollars with at least three solvent sureties, who are owners of unincumbered real estate in the City of St. Louis, or a surety company chartered by the State of Missouri, and shall be subject to the approval of the mayor and council.] (M. C., sec. 1999.)

No longer in force because of Acts 1901, p. 82, sec. 9, fixing the salary of license collector at \$4,000 per annum.

Sec. 2117. [Employes—appointment—license commissioner responsible for acts of.]—The license commissioner shall appoint, subject to the approval of the mayor, one chief deputy and one assistant deputy, either of whom, in the sickness or absence from any cause of the license commissioner may perform all the duties of the license commissioner. He shall also appoint such clerks as may be necessary to properly perform and carry out the duties imposed by ordinance provisions. Provided, that the number of clerks shall be subject to the approval of the mayor, and shall at no time exceed eight. Four of the clerks shall be notaries public and shall administer all the oaths required to be made to the license commissioner, and no fee or compensation, other than the salary allowed them, shall be charged or collected, by said clerks, or by any one for

them, for administering such oaths. He shall also appoint, subject to the approval of the mayor, one stenographer. He shall also appoint subject to the approval of the mayor, permanent inspectors, not exceeding ten in number. The license commissioner and his sureties shall be responsible for the official acts of all employes, appointed by him, and he may require bonds or other security for such employes to secure himself.] (M. C., sec. 2000.)

No longer in effect because of Laws 1901, p. 82, sec. 9. See second note below.

Sec. 2118. [**Salaries of employes.**—The compensation of the employes is hereby fixed as follows: The chief deputy at the rate of two thousand dollars per annum; assistant deputy at the rate of one thousand five hundred dollars per annum; four clerks at the rate of one hundred dollars per month; permanent inspectors at the rate of seventy-five dollars per month; stenographer at the rate of seventy-five dollars per month; all other clerks, whether permanent or temporary, and temporary inspectors, at such rates as may be approved by the mayor, not exceeding seventy-five dollars per month in any case, all payable monthly.] (M. C., sec. 2001.)

Not in force. See note below.

Sec. 2119. **Employes of license collector.**—The license collector is hereby authorized to employ and appoint a cashier, assistant cashier, two clerks and a stenographer, all of said appointments to be subject to the approval of the mayor. Said cashier, assistant cashier, clerks and stenographer shall perform such services in the office of the license collector as he shall direct. (Ord. 20439, sec. 1.)

This ordinance is now in force. Under the act of General Assembly (Laws 1901, pp. 80-82, sec. 9), the license collector's assistants and their salaries are these: Chief deputy at \$1,800, assistant deputy at \$1,500, necessary clerks (not exceeding six) at \$100 per month, inspectors (not exceeding ten), \$75 per month. The employes mentioned in sec. 2119 are in addition to the statutory employes. For vehicle inspectors authorized by ordinance, see R. C., sec. 1810.

Sec. 2120. **Salaries.**—The cashier shall receive compensation at the rate of one hundred and fifty dollars per month; the assistant cashier shall receive salary at the rate of one hundred and eight dollars and thirty-three cents per month; and said clerks and stenographer shall each receive compensation at the rate of seventy-five dollars per month. (*Ib.*, sec. 2.)

Sec. 2121. **Bonds.**—Said cashier shall give bond to the license collector in the penal sum of ten thousand dollars; the assistant cashier shall give bond to the license collector in the penal sum of five thousand dollars, and each of said clerks shall give bond to the license collector in the penal sum of twenty-five hundred dollars; in each case with sureties to be approved by the license collector, said bonds being to secure the license collector, and to indemnify him against any acts of said employes. (*Ib.*, sec. 3.)

Sec 2122. [**License office located.**—The license commissioner shall have his office in the new city hall, in such rooms as may be designated by the mayor.] (M. C., sec. 2002.)

Acts 1901, p. 80, sec. 2.

Sec. 2123. [**"License" and "license tax" defined.**—The words "license" and "license tax," whenever used in this chapter, shall include

licenses for all purposes authorized or required by law or ordinance and also the tax on telegraph and telephone poles, the dog tax, the merchants' ad valorem tax, the manufacturers' ad valorem tax, the vehicle license tax and the special tax on foreign insurance companies, and excepting always dramshop, water and boat or wharfage licenses.] (M. C., sec. 2003.)

Identical with the new law, Acts 1901, p. 81, sec. 8.

Sec. 2124. [**Collector to receive money.**—It shall be the duty of the Collector to collect all taxes, licenses and license taxes which he is now required by law or ordinance to collect. The License Commissioner shall have no authority to collect any taxes, licenses or license taxes for any purpose whatever.] (M. C., sec. 2004.)

Superseded by Acts 1901, p. 80.

Sec. 2125. [**When license commissioner ordinance effective.**—The ordinance creating the office of license commissioner shall not go into force and effect until April 14th, 1897.] (M. C., sec. 2005.)

This section is of course superseded.

CHAPTER 31*.

OF SUBJECTS AND OBJECTS OF LICENSE.

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| ART. | I. Of auctioneers. |
| | II. Of bankers, brokers and insurance companies. |
| | III. Of commission merchants and merchandise brokers. |
| | IV. Of dramshops. |
| | V. Of electric batteries. |
| | VI. Of fortune tellers and astrologists. |
| | VII. Of hotels and boarding houses. |
| | VIII. Of house and real estate agents and brokers. |
| | IX. Of intelligence offices. |
| | X. Of manufacturers. |
| | XI. Of merchants. |
| | XII. Of ordinaries and restaurants. |
| | XIII. Of pawnbrokers. |
| | XIV. Of peddlers and hawkers. |
| | XV. Of railroad ticket brokers. |
| | XVI. Of steamboat, hotel and railroad runners. |
| | XVII. Of stockyards, sales stables and horse and cattle dealers. |
| | XVIII. Of street railway companies. |
| | XIX. Of vault-cleaners. |
| | XX. Of sundry vocations and miscellaneous provisions. |

ARTICLE I.

OF AUCTIONEERS.

Sec. 2126. **Auctioneer defined.**—Whoever shall sell or offer to sell any goods, wares or merchandise, or other personal property or any real estate or interest therein, at any store, stand or other place in the city at public outcry, whether the same shall be exempt from auction duty or not, for his own gain, or shall advertise, or in any other way hold himself out

*As to the right of the city to enact ordinances to "license, tax and regulate" the various vocations, trades, business, vehicles, conveyances, cars, etc., and to suppress certain occupations, see Charter, Art. III, sec. 26, clause fifth, and the annotations thereto appended.

as an actioneer for public patronage, or shall receive fees as a commission for his services, is hereby declared to be an auctioneer. (M. C., sec. 2006.)

Sec. 2127. License must be procured.—No person shall exercise the business or trade of an auctioneer, or sell any property at public auction or outcry without a license therefor first had and obtained. (M. C., sec. 2007.)

Power to license, tax and regulate: Chart., III, sec. 26, clause 5. One licensed as auctioneer can not delegate his authority to sell to another: *Stone vs. State*, 12 Mo. 400. An auctioneer in the City of St. Louis is compelled to obtain a license from the state as well as from the city: *Simpson vs. Savage*, 1 Mo. 359. A person may be guilty, under the act to license auctioneers, of exercising a trade or business of a public auctioneer without a license, although he may receive no compensation for the act of selling. *State vs. Rucker*, 24 Mo. 557.

Sec. 2128. Amount and term of license.—Licenses shall be granted by the license commissioner [license collector] to any person applying therefor, on the payment of the sum of forty dollars, which license shall continue in force for the period of ten days; on the payment of seventy-five dollars, which license shall continue in force for the period of thirty days; on the payment of one hundred and seventy-five dollars, which license shall continue in force for the period of three months; and on the payment of three hundred dollars, which license shall continue in force for the period of six months; provided, that such applicant shall execute a bond with two or more responsible securities approved by the collector in the sum of five hundred dollars, conditioned for the faithful observance of this article; provided, further, that the provisions of this article shall not be so construed as to include any one who shall be acting as a trustee under the provisions of a deed of trust or in any legal capacity whatever. (M. C., sec. 2008.)

Sec. 2129. License of fruit auctioneers.—Any person or persons or company of persons licensed as agents or dealers in fruit may obtain a license as fruit auctioneer upon the payment of one hundred dollars, which license shall continue in force for the period of one year, and no such person or persons or company of persons shall be permitted to sell fruit at public auction without first having obtained a license as fruit auctioneer. (M. C., sec. 2009.)

Sec. 2130. Stock auctioneers—license of.—Any person or persons or company of persons licensed as agents or dealers in stocks, bonds or other securities exclusively, may obtain a license as stock auctioneer upon the payment of fifty dollars, which license shall continue in force for the period of six months, and no such person or persons or company of persons shall be permitted to sell stocks, bonds or other securities at auction or public outcry without first having had and obtained a license as a stock auctioneer. (M. C., sec. 2010.)

Sec. 2131. Real estate auctioneers—license of.—Any person or persons or company of persons licensed as house and real estate agents or brokers may obtain a license as real estate auctioneer upon the payment of two hundred dollars, which license shall continue in force for the period of one year, and no such person or persons or company of persons shall be permitted to sell real estate at auction or public outcry without first having had and obtained a license as a real estate auctioneer. (M. C., sec. 2011.)

Sec. 2132. Horse market may be kept.—Any person or persons complying with the provisions following in this article are authorized to establish and keep a public horse market at any place within the city (not in the streets thereof), for the sale of horses and other live stock, and for buggies, carriages, wagons and vehicles of all descriptions at public auction or outcry. (M. C., sec. 2012.)

Sec. 2133. License—term and amount.—Upon the payment of fifty dollars by any person or persons applying therefor, a license shall be issued in the manner that other licenses are issued for the purpose mentioned in the next preceding section to such person or persons for the period of six months. (M. C., sec. 2013.)

Sec. 2134. Live stock not to be sold on streets at auction.—No horses or other live stock shall be sold upon the streets at public auction. (M. C., sec. 2014.)

Sec. 2135. Bond to be given by horse auctioneer.—Every person licensed as a horse auctioneer, as aforesaid, shall give bond, with two good securities, in the sum of two thousand dollars, who shall be owners of unincumbered real estate in the city, conditioned for the protection of any person intrusting horses or other stock to said auctioneer for sale, and to guard the public against fraud or misrepresentation on the part of said auctioneer. (M. C., sec. 2015.)

Sec. 2136. Penalty.—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, for each and every offense, to be sued for and recovered as in other cases of breaches of ordinances, and at the discretion of the mayor, shall forfeit his license. (M. C., sec. 2016.)

ARTICLE II.

OF BANKERS, BROKERS AND INSURANCE COMPANIES.

Sec. 2137. Bankers, etc., license required of.—No person, firm, company or corporation shall, in the City of St. Louis, carry on the business of banker, banking corporation or institution, or broker of or for any such, or of a financial agent or broker, or of an insurance company, or of a mining stock broker, without having first obtained a license therefor; said license may, at the discretion of the applicant, be issued for six or twelve months, in advance, but not for a less time than six months. (M. C., sec. 2017.)

Under the old Charter (now altered in this respect) the power was only to "license," in which case an ordinance for revenue was not authorized: *St. Louis vs. Boatmen's Ins. Co.*, 47 Mo. 150.

As to right of city to tax insurance companies, see *Home. Ins. Co. vs. Augusta*, 93 U. S. 116.

As to taxing foreign insurance companies, see *post* R. C., sec. 2280.

Sec. 2138. Amount of license.—For every twelve months' license contemplated by the preceding section the applicant shall pay in advance the following amounts respectively, and for every six months' license in the same proportion, viz.: To carry on the business of a banker or bank-

ing corporation or institution, or broker of or for the same, the sum of two hundred dollars; to carry on the business of financial agent or bond or stock broker or mining stock broker, the sum of seventy-five dollars; to carry on the business of an insurance company, whether the same be organized under the laws of this or any other state or country, the sum of one hundred dollars, provided that the provisions of this article in relation to financial agents or brokers shall not apply to real estate agents, and real estate brokers, who are regularly licensed as such. (M. C., sec. 2018.)

Sec. 2139. Banker defined.—Every person, firm, bank, banking company or incorporated institution or association, having a place of business where credits are opened in favor of any one, on time or current deposits, or on collections of money or currency, subject to be repaid or remitted upon drafts, checks or orders, or where money or currency is advanced or loaned on stocks, bonds, bullion, bills of exchange or promissory notes, or where stocks, bonds, bullion, bills of exchange or promissory notes are received for discount or sale, is hereby declared to be a banker, banking corporation or institution. (M. C., sec. 2019.)

Sec. 2140. Financial agent or broker defined.—Every person, firm, company or corporation other than bankers or banking corporations or institutions in the meaning of the last preceding section, who for a commission negotiates, obtains or effects loans of money on real estate security, or on collateral security or personal guarantees, or who effects or negotiates for the purchase or sale of stocks, bonds, bills of exchange, bullion, coin money or currency, promissory notes or other securities, for themselves or others, is hereby declared to be a financial agent or broker. (M. C., sec. 2020.)

Sec. 2141. Insurance company defined.—Every corporation or incorporated institution or association that issues any insurance policy for fire, marine, life, mutual or other insurance, is hereby declared to be an insurance company. (M. C., sec. 2021.)

Sec. 2142. License shall be posted.—All licenses provided for by this article shall be posted in the office or place of business of the person, firm or corporation to whom the same shall have been issued. (M. C., sec. 2022.)

Sec. 2143. To whom license not to issue.—No license shall be issued to any person who by the laws of the state is prohibited from engaging in any business in this article named. (M. C., sec. 2023.)

Sec. 2144. Penalty.—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and on conviction thereof be fined not less than six nor more than three hundred dollars for each offense. (M. C., sec. 2024.)

ARTICLE III.

OF COMMISSION MERCHANTS AND MERCHANDISE BROKERS.

Sec. 2145. Commission merchant defined.—Every person, firm or corporation having a place of business who for another person and for a

commission or other compensation, buys or sells, or receives on consignment for sale, or negotiates between the owner and purchaser for the purchase or sale of any goods, wares and merchandise, flour, grain, provisions, country produce or other article of commerce, is hereby declared to be a commission merchant. (M. C., sec. 2025.)

Sec. 2146. Amount of license—oath required.—Every commission merchant shall pay in advance to the collector for an annual license as follows: Where the aggregate amount of such purchases and sales shall be under one hundred thousand dollars, the sum of twenty-five dollars; where such purchases and sales exceed one hundred thousand dollars and under two hundred thousand dollars, the sum of fifty dollars; where such purchases and sales are over two hundred thousand dollars and under three hundred thousand dollars, the sum of seventy-five dollars; where such purchases and sales are over three hundred thousand dollars and under four hundred thousand dollars, the sum of one hundred dollars; where such purchases and sales exceed four hundred thousand dollars and under five hundred thousand dollars, the sum of one hundred and twenty-five dollars; where such purchases and sales are over five hundred thousand dollars and under six hundred thousand dollars, the sum of one hundred and fifty dollars; where such purchases and sales are over six hundred thousand dollars and under seven hundred thousand dollars, the sum of one hundred and seventy-five dollars; where such purchases and sales are over seven hundred thousand dollars and under eight hundred thousand dollars, the sum of two hundred dollars; where such purchases and sales are over eight hundred thousand dollars and under nine hundred thousand dollars, the sum of two hundred and twenty-five dollars; where such purchases and sales exceed nine hundred thousand dollars and are under one million dollars, the sum of two hundred and fifty dollars; where such purchases and sales are over one million dollars and under two million dollars, the sum of three hundred and fifty dollars; where such purchases and sales are over two million dollars and under three million dollars, the sum of four hundred and fifty dollars; where such purchases and sales are over three million dollars, the sum of five hundred dollars. And each applicant for a license shall make an affidavit of the amount of his purchases and sales as aforesaid during the preceding year, on which he has received commissions or other form of profit, and the license for the current year shall be based upon the amount so sworn to; provided, no license shall be issued for less than twenty-five dollars. (M. C., sec. 2026.)

Sec. 2147. Merchandise broker defined.—Every person, firm or company of persons who for commissions, brokerage or other compensation shall negotiate between the owner and purchaser, or their respective agents, for the purchase or sale of goods, wares and merchandise, or other articles of commerce, is hereby declared to be a merchandise broker, whether such negotiations are on his own account or that of an employer or other person. (M. C., sec. 2027.)

Sec. 2148. License of merchandise broker and agents or assistants.—Every merchandise broker and every member of a firm or company of merchandise brokers, and every clerk and assistant thereof, doing business as such in this city, shall pay in advance for an annual license the sum of fifty dollars. (M. C., sec. 2028.)

Sec. 2149. Penalty.—Any person doing business as a merchandise broker, or commission merchant, whether alone or as a member of a firm

or company of brokers, or as a clerk or assistant, or employe of such person or firm, without the license provided for in this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than twenty-five dollars nor more than five hundred dollars. (M. C., sec. 2029.)

ARTICLE IV.

OF DRAMSHOPS.*

Sec. 2150. Dramshop keeper defined.—[A dramshop keeper is a person permitted by law or ordinance to sell intoxicating liquors in any quantity less than one gallon. No person or copartnership of persons or corporation shall, in this city, directly or indirectly, in person or by another, sell, barter or deliver, for or on his or their account, any intoxicating liquors in quantities less than one gallon, without a license first obtained therefor, according to the provisions of this article, as a keeper of a dramshop.] (M. C., sec. 2030.)

Dramshop keeper defined by statute: R. S. 1899, secs. 2990, 2991; see, also, Laws 1907, p. 254. Above ordinance does not apply to dramshop in a park: State

*This subject was formerly governed by city regulations, under its Charter powers to license, tax, regulate or suppress dramshops (Charter, Art. III, sec. 26, clause fifth). But the General Assembly, in 1893 (and amendments 1905) created the office of excise commissioner for cities of over 300,000 inhabitants and conferred upon him exclusive authority concerning the issuance and revocation of dramshop licenses and enacted other regulations concerning the subject, so that most of the provisions in the ordinances in this article are superseded: R. S. 1899, secs. 3019-3026, ib. 2990-3018, as amended in Laws 1907 (extra session), pp. 254-257; Session Laws 1905, pp. 142; ib. 140. (Set out herein under "Laws Specially Applicable to St. Louis," ante pages 122-124, being Chap. 8, sec. 229, and following. And see notes thereto.)

It is considered best, however (in view of some intimations by the Supreme Court), instead of undertaking simply to omit supposedly superseded or repealed provisions, to retain all the ordinance provisions of the dramshop law, indicating such parts as are believed to have been affected, or supplanted by the state law, by inclosing them in brackets, and referring in a note thereto to such sections of the State statutes as are deemed incompatible therewith.

Speaking of the effect of the State law of 1893 upon the then existing ordinances of the city, the court in *State ex rel. vs. Bell*, 119 Mo. 70, 75, says: "The act of 1893 makes it the duty of the excise commissioner to issue, and gives him power to revoke, dramshop licenses. In other respects the State law and the existing valid ordinances of the city remain in full force." And again: "We think it was the purpose of the act of 1893 to provide for a commissioner who should have the sole power to issue city dramshop licenses as well as licenses on behalf of the State; and, this intention appearing, the ordinances of St. Louis must give way, to the act as far as they are in conflict with it." This case also holds that the eighth section of the act of 1891 (R. S. 1899, sec. 2997) applies to the city as to the manner of issuing licenses, together with the ordinances (119 Mo., pp. 72, 74); so, also, in *State ex rel. vs. Higgins*, 71 Mo. App. 180, on pp. 183-184. The revocation of a permit or license by the excise commissioner is not of a judicial nature, and is not reviewable in court: *Higgins vs. Talty*, 157 Mo. 280 (revocation for keeping disorderly house); *State vs. Seebold*, 192 Mo. 720 (revocation for selling liquor on Sunday).

As to rulings under the former law, that the collector in St. Louis performed the same functions as the county courts, and that applicant for license required a petition signed by majority of taxpayers in the block, see *State ex rel. vs. Hudson*, 13 Mo. App. 61. See, also, as to authority of collector under the old law, *State ex rel. vs. Rosenblatt*, 9 Mo. App. 587.

As to annotations on the State laws (relating to Dramshops and Excise Commissioner), see further: *State Laws Relating to St. Louis*, ante, secs. 229 et seq., pp. 122-124.

ex rel. vs. Schweickardt, 109 Mo. 496, 513. In State ex rel. vs. Bell, 119 Mo. 70, 74, the court says: "The general law provides that no person shall sell intoxicating liquors in any quantity less than three gallons, either at retail or in the original package, without taking out a license as a dramshop keeper; and by the ordinances of the city of St. Louis a dramshop keeper is a person permitted by law or ordinance to sell intoxicating liquors in any quantity less than a gallon. The State license, it will be seen, differs from the city license. The State license may begin at one time and the city at another."

Sec. 2151. **Application for license.**—[Applications for any license under this article shall be made in writing to the license commissioner and shall state specifically where the dramshop is to be kept; and no license shall be granted unless such application be accompanied by a petition signed by a majority of the assessed taxpaying citizens in the block or square where it is proposed to locate the dramshop; and said petition shall ask that such license be granted, and such petition shall be renewed yearly thereafter on each successive fourth day of July. In cases where the license commissioner has substantial reasons to doubt the moral character of the applicant or the genuineness of the signatures to the petition, he is hereby required to refer to the board of police commissioners of the City of St. Louis such applications made to him for licenses under this article, together with the petition accompanying same, and if the said board of police commissioners shall, after proper inquiry, be of the opinion that the applicant is a person of good moral character, and that the signatures to said petition are genuine, and that said petition is signed as hereinbefore required, the said board of police commissioners shall indorse upon the application of every such applicant, "Approved," and return the same with its accompanying petition, to the license commissioner, who shall then grant a license upon the application so indorsed; provided, all other requirements of this article shall have been complied with by such applicant for license; and all licenses issued under this article shall be kept posted up in some conspicuous place behind the bar, and as near the center thereof as possible. But if the said board of police commissioners shall be satisfied that such applicant is not a person of good moral character, or that the signatures to said petition are not genuine, or that said petition is not signed as hereinbefore required, the said commissioners shall indorse upon the application of every applicant, "Disapproved," and return the same to the license commissioner, when the license shall be refused. But if the license commissioner is not satisfied with such indorsement, he shall certify and report such application to the council, if in session, for its action, and to the mayor when the council is not in session, which shall be conclusive upon the petitioners; provided, that before any license shall be granted the license commissioner shall require of the person applying for it a bond to be given to the city in the sum of two thousand dollars, with two or more securities, to be approved by the collector, conditioned that the person obtaining such license shall keep at all times an orderly house, and that he will not sell, give away or otherwise dispose of, or suffer the same to be done about his premises, any intoxicating liquor in any quantity to any minor, without the consent of the guardian, master or parent of such minor; and conditioned that he will not violate any of the provisions of this article, or any of the provisions of chapter ninety-eight of the revised statutes of Missouri; and that he will pay all fines, penalties and forfeitures which may be adjudged against him under the provisions of this article or of said chapter. Before any person shall be taken as security on such bond he shall make affidavit before the license commissioner in the following form: State of Missouri, City of St. Louis, ss.: — being duly sworn on his oath, says that he is a resident of the City of St. Louis aforesaid, and that he is owner in fee simple of real estate therein subject to execution of the

value of two thousand dollars over and above the amount of his just debts and liabilities, and exemption for homestead. Sworn to and subscribed before me this — day of —, 19—, —, —, license commissioner; provided, that nothing herein shall be construed so as to prohibit the license commissioner from compelling the dramshop keeper to furnish new and other bondsmen, should such securities become insolvent, non-residents, insane, or otherwise disqualified from acting as such bondsmen.] (M. C., sec. 2031.)

See R. S. 1899, secs. 2997 (amended Laws 1901, p. 142), 3020; State ex rel. vs. Higgins, 71 Mo. App. 180; State ex rel. vs. Mulvihill, 113 Mo. App. 324, 328; Higgins vs. Talty, 157 Mo. 280; State vs. Seebold, 192 Mo. 720.

Sec. 2152. Place of business, license limited to.—[No person or persons to whom a license shall be issued shall keep a dramshop at any other place than the place designated; provided, that he or they may remove the carrying on of such business during the continuance of such license from the tenement designated therein to any other tenement in the city; provided, that he or they shall first have obtained permission for such transfer of business from the collector, as if he or they were originally applying for a license, and under the same restrictions as are required by section twenty-one hundred and fifty-one.] (M. C., sec. 2032.)

R. S. 1899, sec. 2992; see, also, sec. 2992a and 2993a, added by Laws 1907, p. 254.

Sec. 2153. License not transferable.—[No license granted under this article, shall be assignable or transferable.] (M. C., sec. 2033.)

R. S. 1899, sec. 2992.

Sec. 2154. Merchants exempt from article.—[This article shall not be construed to apply to any sale of intoxicating liquors by any person under authority of ordinance regulating merchants' licenses.] (M. C., sec. 2034.)

R. S. 1899, sec. 3015, Amended Laws 1905, p. 140.

Sec. 2155. Amount of license.—For a license as a dramshop keeper there shall be paid the sum of two hundred and fifty dollars for city purposes [and twenty-five dollars for state purposes, and any such license, shall authorize the business therein designated to be carried on at one place only, and such license shall remain in force for the period of six months from its date; provided, that the license commissioner may, with the approval of the comptroller, issue any such license for a different period than six months, if necessary, in order that the state and city licenses to the same party may expire at the same time and at the date fixed by this article. No fee shall be charged by the license commissioner for administering oaths or taking affidavits.] (M. C., sec. 2035.)

Sec. 3008, R. S. 1899, provides that "the proper authorities of incorporated towns and cities may impose a tax on licenses to dramshop keepers." R. S. 1899, sec. 2996, amended Laws 1905, p. 143, provides that the State tax shall not be less than \$50 for State purposes and not less than \$250 nor over \$400 for county purposes for six-month periods, etc.

Sec. 2156. Number of licenses granted to be reported.—[It shall be the duty of the license commissioner to report to the comptroller on the first Monday in every month the number of licenses granted for the preceding month, together with the names of persons to whom granted, and

the names of the streets and the number of the houses for which the licenses were granted. It shall be the duty of the police to see that all ordinances in regard to dramshops are enforced, and for this purpose it shall be the duty of the police commissioners to inform the members of the police of all ordinances in regard to dramshops. It shall be their duty to report to the chief of police on the first Monday of each month the number, together with the names of the persons and the number of their houses, in their respective districts, in which any dramshop is kept, as also whether such dramshop is kept in an orderly manner or not, and the same shall be transmitted to the collector.] (M. C., sec. 2036.)

R. S. 1899, sec. 3023.

Sec. 2157. [Park restrictions.*]—No saloon shall hereafter be established, opened or located in any building or on any lot of ground within five hundred feet of Lafayette, Tower Grove, O'Fallon, Carondelet and Forest Park; provided, that this provision shall not apply to any premises within the prohibited distance on which a saloon has been conducted within the past five years.] (M. C., sec. 2037.)

Construed: State ex rel. vs. Schweickardt, 109 Mo. 496, 504-505. But this section (sec. 2157) was repealed by ordinance No. 22868, approved March 11, 1907 (after the submission to the Assembly of the Revised Code and too late to appear therein), and a new section enacted in lieu thereof, designated as section 2037 of the old Municipal Code, corresponding to sec. 2157 of the Revised Code; the present ordinance is as follows:

(22868)

"An ordinance to repeal section 2037 of the Municipal Code of the City of St. Louis [sec. 2157 of Rev. Code], relating to the establishment and location of saloons, and to enact in lieu thereof a new section, to be known as section 2037.

"Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

"Section One. Section 2037 of the Municipal Code of the City of St. Louis is hereby repealed.

"Section Two. The following section, to be known as section 2037, is hereby enacted in lieu of section 2037 hereinbefore repealed. Said new section to read as follows:

"Section 2037 [R. C., sec. 2157]. No saloon shall hereafter be established, opened or located on any lot of ground, or in any building within four hundred feet of Lafayette, Tower Grove, O'Fallon, Carondelet and Forest Parks; provided, however, that this provision shall not apply to hotels or apartment house buildings of not less than two hundred and fifty rooms, which buildings are so constructed as to be buildings of the first class, as defined by the building laws of the City of St. Louis."

Session Laws 1907, p. 257, provides that no dramshop license shall thereafter be granted to keep a dramshop within five miles of any State educational institution which then had 1,500 or more students.

Section 6099, Rev. St. 1899, prohibiting saloons within 600 feet of any park in a city, was held unconstitutional, being a part of the entire act held void by reason of defect in the title, in the case of State ex rel. vs. County Ct. of Jackson Co., 102 Mo. 531.

Sec. 2158. Penalties—license may be revoked.—[Whenever it shall be shown to the mayor, upon the written statement of three or more reputable property owners, subscribed and sworn to, that any dramshop or saloon keeper has not kept at all times an orderly house, the mayor shall at once notify such dramshop or saloon keeper to appear before him and he shall investigate the charges preferred. If satisfied of the truth of the statement made, he shall revoke the license of such dramshop or saloon keeper, and if requested by such dramshop or saloon keeper he shall forthwith place the papers in the hands of the prosecuting attorney of the police

*This section is repealed and a new section substituted: See note to section.

court with instructions to institute proceedings against such dramshop or saloon keeper, and if on the trial of such case the dramshop or saloon keeper shall be acquitted, the revocation of such license by the mayor shall be null and void; provided, that the license commissioner shall not grant a license to any person who has ever been convicted of a violation of any of the provisions of this article, or who at the time of his application for such license may be shown to have sold, given away, or otherwise disposed of intoxicating liquors to any person under the age of eighteen years without the permission or consent herein required, or who has had in his employ in his business of dramshop keeping any person whose license has been revoked or who has been convicted as above mentioned, or who has sold, given away, or otherwise disposed of any intoxicating liquors as above mentioned.] (M. C., sec. 2038.)

Superseded by State statute: R. S. 1899, secs. 3021, 3024, etc.; see *Higgins vs. Talty*, 157 Mo. 280; *State vs. Seebold*, 192 Mo. 720.

Sec. 2159. To whom licenses not to issue.—No license shall be issued to any person to keep a dramshop at any place where any amusement, such as theatrical exhibitions, negro minstrels, musical party or concert, exhibition of rope or wire dancing, wax figures, painting, statuary, tricks or legerdemain, menagerie, thespian performances, or any other exhibition or show or amusement is carried on, either when the admission is free or where a fee for admission is charged, without a license shall have been taken out for such amusement, exhibition or show. (M. C., sec. 2039.)

See R. S. 1899, sec. 3018.

Sec. 2160. Intoxicating liquor defined.—[The term “intoxicating liquor,” as used in this article, shall be construed to mean fermented, vinous and spirituous liquors or any composition of which fermented, vinous or spirituous liquor is a part, and all the foregoing provisions shall be liberally construed as remedial in their character.] (M. C., sec. 2040.)

R. S. 1899, sec. 3016. See *State vs. Besheer*, 69 Mo. App. 72.

Sec. 2161. Remonstrances, etc.—[Under authority of sections twenty-four and thirty-four of the Scheme for separating the City and County of St. Louis, all applications, petitions and remonstrances for and against dramshop licenses proposed to be issued under State law shall be made to the license commissioner, and shall take the same course and be governed by the same proceedings in relation thereto as are prescribed by this article for the granting or refusal of dramshop licenses by the city; and all blanks used for licenses under state law shall be issued by the register and countersigned by the comptroller, and but one application, petition and bond shall be required.] (M. C., sec. 2041.)

Superseded by the State law.

Sec. 2162. Obscene paintings prohibited.—No immoral or obscene paintings or pictures shall be exposed to view in any dramshop. [Any keeper of a dramshop who shall violate this section shall be liable to all the penalties prescribed in section 2158.] (M. C., sec. 2042.)

The portion in brackets is displaced by the statutes.

Sec. 2163. Dramshop in house of prostitution prohibited.—No dramshop shall be licensed or permitted to be kept or maintained in any house or building used for the purposes of prostitution or as a house of assignation or ill-fame. [If, after a dramshop license is granted, the

building in which the dramshop is located shall be used for the above-mentioned purposes or any of them, then the license granted shall be null and void.] (M. C., sec. 2043.)

Sec. 2164. **Penalty.**—Whoever shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than fifty nor more than three hundred dollars. (M. C., sec. 2044.)

Sec. 2165. **Duty of license commissioner to enforce.**—[It shall be the special duty of the license commissioner to see that the provisions of this article are enforced.] (M. C., sec. 2045.)

This is, of course, displaced by the statute conferring jurisdiction on the excise commissioner.

ARTICLE V.

OF ELECTRIC BATTERIES.

Sec. 2166. **License required—term of.**—It shall be unlawful for any person to exhibit any electric battery in the City of St. Louis without first having obtained from the license collector a license therefor. Said license shall not be transferable and shall be issued for twelve months. (M. C., sec. 2046.)

For authority of Charter, see Art. III, sec. 26, clause 5.

Sec. 2167. **Amount of license.**—For a license under the provisions of this article the applicant shall pay twenty-five dollars in advance. (M. C., sec. 2047.)

Sec. 2168. **Penalty.**—Any person violating the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense. (M. C., sec. 2048.)

ARTICLE VI.

OF FORTUNE TELLERS AND ASTROLOGISTS.

Sec. 2169. **Fortune tellers and astrologists to be licensed.**—No person shall exercise, within the City of St. Louis, the business, profession or avocation of a fortune teller or astrologist, without first procuring a license therefor, as hereinafter provided. (M. C., sec. 2049.)

Authorized by Charter, Art. III, sec. 26, clause 5.

Sec. 2170. **Terms defined.**—A fortune teller is one who, for a compensation, tells or pretends to foretell the events of one's life, or one who pretends to a knowledge of future events. An astrologist is one who, for a compensation, pretends to foretell the future events of one's life by aspect or situation of the stars. (M. C., sec. 2050.)

Sec. 2171. **Amount of license.**—There shall be levied and collected for every license so issued to a fortune teller or to an astrologist, entitling him or her to practice their [his or her] profession for one year, the sum of one hundred dollars. (M. C., sec. 2051.)

Sec. 2172. **Penalty.**—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred nor more than two hundred dollars for each offense. (M. C., sec. 2052.)

ARTICLE VII.

OF HOTELS AND BOARDING HOUSES.*

Sec. 2173. **Hotel and boarding-houses defined.**—A house where persons are furnished with either board or lodging, or both, for a compensation, paid, or to be paid, therefor, and having more than four bedrooms for the use of guests, is a hotel or boarding-house within the meaning of this article. (M. C., sec. 2053.)

Sec. 2174. **Amount and term.**—There shall be levied and collected for every hotel or boarding-house the sum of fifty cents for each and every room in such house, which has been constructed or intended to be used as bedrooms or parlors, the payment of which amount shall entitle such hotel or boarding-house to a license for one year, and no license shall be issued for a less term than one year. (M. C., sec. 2054.)

By ordinance 22573, approved Oct. 2, 1906, (after submission to the Assembly of the Rev. Code, so that the same could not be included herein), this section was amended by adding thereto the words: "said license in each case to run from the first day of February of such year."

Sec. 2175. **Penalty.**—Any person, firm or corporation who shall keep a hotel or boarding-house without first having obtained a license therefor, according to the provisions of section 2174, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in double the amount required for license for such hotel or boarding-house, not exceeding, however, the sum of five hundred dollars; but nothing in this article shall be so construed as to mean houses where relations of the family only are boarding for a compensation. (M. C., sec. 2055.)

ARTICLE VIII.

OF HOUSE AND REAL ESTATE AGENTS AND BROKERS.**

Sec. 2176. **House and real estate agents defined.**—Every person or firm composed of one or more persons, who shall act as agent for any party in the leasing, renting or selling of houses or real estate at private or public sale, or who shall receive or collect rents for another for a commission or other compensation, or who shall advertise or hang out any sign or device which shall designate him as an agent for the renting, collecting rents, leasing or selling of houses or real estate, shall be considered as house or real estate agent. (M. C., sec. 2056.)

*The provisions of this article (7) upheld: *St. Louis vs. Bircher*, 76 Mo. 431, affirming 7 Mo. App. 169. Charter authority: Art. III, sec. 26, clause 5.

**The provisions of this article (8) were sustained as within the Charter powers of the city to enact and as not being unconstitutional in *St. Louis vs. McCann*, 157 Mo. 301. See Charter, Art. III, sec. 26, subdivision 5; but that clause does not confer power to require agents to take down premises that may be unsafe: *St. Louis vs. Kaime*, 180 Mo. 309, 316.

Sec. 2177. Real estate broker defined.—A real estate broker is one who for commission or other compensation is engaged in the selling of or negotiates sales of real estate belonging to others. (M. C., sec. 2057.)

Sec. 2178. Amount—penalty.—Every person or firm composed of one or more persons engaged in the business defined in the foregoing sections shall pay an annual license of twenty-five dollars, which shall be payable before any such person or firm shall be permitted to transact any business; and if such person or persons fail to pay said license, then he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than one hundred dollars nor more than two hundred dollars. (M. C., sec. 2058.)

This section is amended by ord. No. 22597, approved Oct. 15, 1906 (too late for insertion in Rev. Code). See same set forth in the Appendix.

ARTICLE IX.

OF INTELLIGENCE OFFICES.

Sec. 2179. Intelligence office defined.—Whosoever shall upon or keep an office or place in the city for the purpose of obtaining employment for others, or obtaining employes for others, or giving information whereby employers or employes may be obtained for a compensation to be paid by either party, shall be deemed to be the keeper of an intelligence office. (M. C., sec. 2059.)

Sec. 2180. License required—application—license to be posted.—No person shall keep an intelligence office in this city without a license therefor, first had and obtained from the license collector, for which such person shall pay the sum of three hundred dollars per annum. The license collector shall issue all licenses provided for by this article; provided, that such application for a license shall be in writing and shall state where the proposed intelligence office shall be kept; and provided, that no license shall be granted under this article until the license collector has procured from the police commissioners an indorsement on the back of the application to the effect that in their opinion the applicant is a person of good moral character. Every person holding such license shall keep a copy of this article conspicuously hung up in his or their office. (M. C., sec. 2060.)

Charter authority: Art. III, sec. 26, clause 5.

Sec. 2181. Deception by keepers—penalties.—Any keeper of an intelligence office who shall make any willful misrepresentation, or receive money for positions, either directly or indirectly, unless position is secured, or who shall willfully deceive any person, or who shall ask, demand or receive any unusual or exorbitant fee, or be guilty of any deception whatever, to any person who may employ him or her, as the case may be, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined for each offense not less than fifty dollars, and the license of such persons shall thereby become forfeited, and he shall be incompetent, thereafter, to receive a license under the provisions of this article; provided, however, that this section shall in nowise appertain or apply to the employment bureaus of benevolent or fraternal societies. (M. C., sec. 2061.)

Sec. 2182. License may be revoked.—The mayor shall have power and authority, on good cause shown, to revoke any license issued

under this article, and upon such revocation shall certify the same to the license collector; provided, however, that the person or persons complained of shall have a reasonable opportunity to defend themselves; and, provided, further, that each license issued by virtue of this article shall express on its face that it is received and held subject to be revoked at the pleasure of the mayor. (M. C., sec. 2062.)

Sec. 2183. **Penalty.**—Every person who shall violate or fail to comply with the provisions of section 2180 shall be guilty of a misdemeanor, and on conviction thereof, be fined not less than one hundred dollars. (M. C., sec. 2063.)

ARTICLE X.

OF MANUFACTURERS.*

Sec. 2184. **Manufacturer defined.**—Every person, firm or corporation, who shall hold or purchase personal property for the purpose of adding to the value thereof, by any process of manufacturing, refining, or by the combination of different materials, or shall purchase and sell manufactured articles such as [he manufactures] or uses in manufacturing, shall be held to be a manufacturer for the purposes of this article, except as is or may be otherwise provided by ordinance. (M. C., sec. 2064.)

Sec. 2185. **License required—amount, etc.**—Every person defined to be a manufacturer by the preceding section shall, before doing or offering to do business as such, procure from the license collector a license therefor, under the provisions of this article, for which there shall be paid the same rate as merchants are required to pay for a license; provided, in collecting license on the sales of tobacco of any kind, on high-wines and on beer, the manufacturer shall be permitted to deduct the amount of tax paid the United States from the total sales made by him or them, and if he shall, within the City of St. Louis, do or offer to do any manufacturing business without first complying with the provisions of this article, or shall otherwise violate or fail to comply with any of the provisions of this article, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense. No license shall be assignable or transferable. (M. C., sec. 2065.)

Sec. 2186. **Statement of manufacturer required—license, when paid—publication.**—The license collector or his deputies shall, after the first Monday of March and before the first Monday in June in each year, call on each and every person defined by this article to be a manufacturer, and notify him to furnish, and it shall be the duty of such person, whether so notified or not, to furnish said license collector: First, a statement of the value of the greatest aggregate amount of raw materials, merchandise and finished products (to be listed separately) which he had on hand between the first Monday of March and the first Monday in June in each year on any one day between said times, as well as all tools, machinery and appliances used in conducting his business or owned by him on the first

*Charter authority: Art. III, sec. 26, clause 5. Statutory authority of city to tax manufacturers, see R. S. 1899, secs. 9397, 9398, being set forth herein in State Laws for St. Louis, sec. 496, page 191.

day in June of each year. Second, a statement of the aggregate amount of all sales made by him during the year next preceding the first Monday of June, which statement shall be made in writing and delivered to the license collector, verified by the affidavit of the manufacturer, or officer of the corporation making it, if residing in the city; if not, then by some credible person authorized to do so, and the amount of tax and license due thereon shall be paid to the license collector, at his office, on or before the first Monday of July in each year. It shall be the duty of the license collector, when so directed by the comptroller, to give notice by publication in the papers doing the city printing of any of the provisions or requirements of this article. (M. C., sec. 2066.)

Sec. 2187. **Ad valorem tax, to be levied.**—In addition to the license hereinbefore provided for, there shall be levied and collected on the value of the raw materials, merchandise and finished products, tools and machinery and appliances contained in the statement as aforesaid, an annual ad valorem city tax at the same rate as is required by ordinance for the taxing of merchants, within the several districts of the city, which tax and license hereinbefore mentioned shall be paid to the license collector, on or before the first Monday of July in each and every year. (M. C., sec. 2067.)

Sec. 2188. **Form of license.**—It shall be the duty of the comptroller to furnish the license collector with blank licenses, which license shall be charged to the license collector, and his receipt taken therefor. Said license shall be in the following form: No. — manufacturers' city license. The City of St. Louis: To all who shall see these presents, greeting: Know ye that — having paid —, license collector of the City of St. Louis, the sum of — dollars, being the license tax upon — as manufacturer; therefore the said — is hereby authorized to manufacture the following articles, viz.: — except as otherwise provided by ordinance, at any one place of business within the city for the year ending on the first Monday of July, 19—, and to sell and dispose of such articles so manufactured at the same place, or any other one place in the city. In testimony whereof, I —, comptroller of the City of St. Louis, have hereunto set my hand this — day of —, 19—, —, comptroller. Attest: —, Register. Tax —, license —, Delivered this — day of —, 19—, —, —, license collector. (M. C., sec. 2068.)

Sec. 2189. **Licenses issued—to compare with stubs of blanks.**—The blank licenses provided for in the next preceding section shall be bound in book form with suitable margins or stubs, on which shall be made and entered the sworn statements required by this article. There shall also be entered upon the margins or stubs the amount of tax and license collected in accordance with the statement so made; said margins or stubs shall be returned with the license collector's statement of the items and aggregate amount collected to the comptroller, who shall examine and compare the same and charge the aggregate amount collected to the license collector. (M. C., sec. 2069.)

Sec. 2190. **Bond.**—When any manufacturer, manufacturing firm or corporation shall commence the business of manufacturing in the City of St. Louis, after the first Monday in July in any year, he or they shall take out a manufacturers' license therefor, but before any such license shall be issued to him or them, he or they shall execute a bond to the city, with

two or more sufficient securities, who shall be freeholders at the time, or deposit with the license collector bonds of the City of St. Louis or other securities of equal value, conditioned that he or they will after the first Monday of June next succeeding and before the first Monday of July thereafter, furnish to the license collector, first, a statement, verified as therein required, of the value of the greatest aggregate amount of raw materials, merchandise and finished products (to be listed separately), which he had on hand between the first Monday of March and the first Monday of June on any one day between said times, as well as all tools, machinery and appliances used in conducting his or their business, or owned by him or them on the first day of June; second, a statement, verified as herein required, of the aggregate amount of all sales made by them during the year or part of year from the time he or they commenced business to the first Monday of June next succeeding, and that he or they will pay to the license collector the ad valorem tax and license due upon the amounts of such statements, which bond or securities shall be in such sum as the license collector may deem sufficient to protect the city's interest, and shall be approved by the license collector and his approval indorsed thereon, and upon which statement there shall be paid the same rate of taxes and license as other manufacturers pay; but the amount of ad valorem tax demanded shall be such a fraction of the full annual tax as the time from the day on which business was commenced on the first Monday of July, next succeeding, bears to one year; and every such manufacturer, manufacturing firm or corporation who shall fail or neglect to perform and fulfill the conditions of the bond executed by him or them, as herein provided, shall be deemed to have forfeited said bond, and in that event it shall be the duty of the comptroller to cause suit to be instituted thereon against the principal and all sureties of such bond, in the court having jurisdiction, or make sale of the securities deposited with him instead of a bond at public sale after having given ten days' notice thereof in the newspaper doing the city printing. (M. C., sec. 2070.)

Sec. 2191. Account sales open to license collector.—It shall be the duty of each manufacturer, manufacturing firm or corporation to keep in a proper book and entered in ink an account of all sales made by him or them, which accounts shall always be open to the inspection of the license collector, to verify the returns made to him. The statements or returns made to the license collector under the requirements of this article shall not be made public, nor shall they be subject to the inspection of any person except the mayor, comptroller and members of the municipal assembly. (M. C., sec. 2071.)

Sec. 2192. Penalty for failure to make statement.—In case any manufacturer, manufacturing firm or corporation shall fail, neglect or refuse to deliver the statements herein required, or pay the license and tax levied by this article on or before the first Monday in July of each year, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined as provided in section 2185, and in addition thereto the license collector shall assess the raw materials, merchandise, finished product, tools, machinery and appliances, and aggregate amount of all sales of such manufacturer, manufacturing firm or corporation, at double their value, to be ascertained from the best information he can obtain, and he shall report the delinquent to the city attorney. (M. C., sec. 2072.)

Sec. 2193. Penalty for making false statement.—Whoever shall make or file with the license collector under the provisions of this

article, a false statement under oath, shall, on conviction thereof, forfeit his license and pay a fine of not exceeding five hundred dollars. And it shall be the duty of the license collector to carefully examine all statements filed with him, and to prosecute all violations of this article, according to law; provided, that before instituting any such prosecution, he shall give the manufacturer an opportunity of explaining his statement and of correcting it, if inadvertently made. And if it shall appear to the license collector that such false statement was willfully and corruptly made, he shall report all the facts to the grand jury. (M. C., sec. 2073.)

ARTICLE XI.

OF MERCHANTS.*

Sec. 2194. **Merchant—term defined.**—Whoever shall deal in the selling of any goods, wares or merchandise at any store, stand or place occupied for that purpose within the city, or at the Merchants' Exchange, is hereby declared to be a merchant, except as is or may be otherwise provided by ordinance. (M. C., sec. 2074.)

See foot-note.

Sec. 2195. **License required.**—Every person defined to be a merchant by the preceding section shall, before doing or offering to do the business as such, procure from the license collector a license therefor, under the provisions of this article, and if he shall, within the City of St. Louis, sell or offer for sale any goods, wares or merchandise, without first complying with the provisions of this article, or shall otherwise violate or fail to comply with any of the provisions of this article, he shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than twenty-five dollars nor more than five hundred dollars for each offense. (M. C., sec. 2075.)

Sec. 2196. **License cannot be assigned.**—No license shall be assignable or transferable. (M. C., sec. 2075a.)

Sec. 2197. **Statement of merchants.**—The license collector or his deputies shall, after the first Monday in March and before the first Monday of June in each year, call on each and every person defined by this article to be a merchant, and notify him to furnish, and it shall be the duty of such person whether so notified or not to furnish, said license collector: First, a statement of the value of the largest amount of all goods, wares and merchandise which he may have had in his possession or under his control at any time between the first Monday of March and the first Monday of June in each year; second, a statement of the aggregate amount of all sales made by him during the year next preceding the first Monday of June, which statement shall be made in writing and delivered to the license

*As to statutory power of city to tax merchants, see R. S. 1899, secs. 9397 and 9398 (State Laws for St. Louis, p. 190-191; secs. 495-496); for charter power, see Charter, Art. III, sec. 26, clause 5, and notes. Term "Merchant" defined as used in divers charter, statute or ordinance provisions: *Canton vs. McDaniel*, 188 Mo. 207; *Kansas City vs. Vindquest*, 36 Mo. App. 584; *Kansas City vs. Larber*, 64 Mo. App. 604; *Kansas City vs. Johnson*, 78 Mo. 661; *St. Joseph vs. Dye*, 72 Mo. App. 214; *Troy vs. Harris*, 102 Mo. App. 51.

As to validity of merchants' tax, see *Aurora vs. McGannon*, 138 Mo. 38; *St. Louis vs. Steinberg*, 69 Mo. 289; *Canton vs. McDaniel*, 188 Mo. 207; *Troy vs. Harris*, 102 Mo. App. 51.

collector, verified by the affidavit of the merchant or officer of the corporation making it if residing in the city; if not, then by some credible person duly authorized to do so, and the amount of the tax and license due thereon shall be paid to said collector at his office on or before the first Monday of July in each year. It shall be the duty of the license collector, when so directed by the comptroller, to give notice by publication in the papers doing the city printing of any of the provisions or requirements of this article. (M. C., sec. 2076.)

Sec. 2198. Ad valorem and additional tax—rate—time of payment.—There shall be levied and collected on the value of the largest amount of all goods, wares and merchandise stated as aforesaid an ad valorem tax of one-fifth of one per centum on the value of all such goods, wares and merchandise, situated within the limits of the City, for municipal purposes. This tax shall be paid to license collector on or before the first Monday of July in each year, together with a license which shall be paid every year by the merchant, mercantile firm or corporation (in addition to the per centum hereinbefore stated) of one dollar on each one thousand dollars or fractional part thereof, of sales made by such merchant, mercantile firm or corporation, provided that no license shall be issued under the provisions of this article for a less sum than five dollars, which sum shall be paid by each merchant, mercantile firm or corporation doing a business of five thousand dollars or less per annum. (Ord. 20600 amending M. C. sec. 2077.)

Sec. 2199. Form of license.—It shall be the duty of the comptroller to furnish the license collector with all blank licenses, which licenses shall be charged to the license collector and his receipt taken therefor. Said licenses shall be in the following form: Merchant's city license, No. ——. The City of St. Louis: To all who shall see these presents, greeting: Know ye that — having paid to —, license collector of the City of St. Louis the sum of — dollars, being the tax and license upon — as a merchant, therefore the said — is hereby authorized to sell any goods, wares and merchandise of any description, except as otherwise provided by ordinance at any one store, stand or place of business within the city, or at the Merchants' Exchange, for the year ending on the first Monday of July, 19—. In testimony whereof, I, —, comptroller of the City of St. Louis, have hereunto set my hand this — day of —, 19—. — Comptroller. Attest: —, Register. Tax, —; license, —. Delivered this — day of —, 19—, —, License Collector. (M. C., sec. 2078.)

Sec. 2200. Licenses issued to correspond with stubs.—The blank licenses provided for in the next preceding section shall be bound in book form, with suitable margins or stubs, on which shall be made and entered the sworn statements required by this article. There shall also be entered upon the margins or stubs the amount of tax or license collected in accordance with the statements so made; said margins or stubs shall be returned, with the license collector's statements of the items and aggregate amount collected, to the comptroller, who shall examine and compare the same, and charge the aggregate amount collected to said collector. (M. C., sec. 2079.)

Sec. 2201. Bond.—When any merchant, mercantile firm or corporation shall commence business in the City of St. Louis, after the first Monday in

July, in any year, he or they shall take out a merchant's license therefor, but before any such license shall be issued to him or them, he or they shall execute a bond to the city, with two or more sufficient securities, who shall be freeholders at the time, or deposit with the license collector bonds of the City of St. Louis or other securities of equal value, conditioned that he or they will, on or before the first Monday of July next following, furnish to the license collector, first, a statement verified as required by this article, of the value of the largest amount of all goods, wares and merchandise he or they had on hand or subject to their control at any time between the first Monday of March and the first Monday of June next succeeding; second, a statement, verified as required by this article, of the aggregate amount of all sales made by them between the date upon which he or they commenced business and the first Monday of June next succeeding, and that he or they will pay to said collector the ad valorem tax and license due according to the provisions of this article, which bond or securities shall be in such sums as the license collector may deem sufficient to protect the city's interest, and shall be approved by him and his approval indorsed thereon. Upon such statements there shall be paid the same rate of taxes and license as other merchants pay, but the amount of ad valorem tax demanded shall be such a fraction of the full annual tax as the time from the day on which the business was commenced to the first Monday of July next succeeding bears to one year, and every such merchant, mercantile firm or corporation who shall fail or neglect to perform or fulfill the conditions of the bond executed by him or them as herein provided, shall be deemed to have forfeited said bond, and in that event it shall be the duty of the comptroller to cause suit to be instituted thereon against the principals and all such securities of such bond in the court having competent jurisdiction, or make sale of the securities deposited with him instead of a bond, at public sale, after having given ten days' notice thereof in the newspapers doing the city printing. (M. C., sec. 2080.)

Sec. 2202. Account sales to be open to inspection.—It shall be the duty of each merchant, mercantile firm or corporation to keep a proper book, and entered in ink, an account of all sales made by him or them, which account shall always be open to the inspection of the license collector to verify the returns made to him. The statements or returns made to the license collector under the requirements of this article shall not be made public, nor shall they be subject to the inspection of any person except the mayor, comptroller and members of the municipal assembly. (M. C., sec. 2081.)

Sec. 2203. Penalty for failure to make statement or pay license.—In case any person, mercantile firm or corporation shall fail, neglect or refuse to deliver the statement herein required and pay the tax and license levied by this article on or before the first Monday of July in each year, he or they shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined as provided for in section 2195, and in addition thereto the license collector shall assess the goods, wares, merchandise and aggregate amount of sales of such merchant, firm or corporation at double their value, to be ascertained by the best information he can obtain, and he shall also report the delinquent to the city attorney. (M. C., sec. 2082.)

Sec. 2204. Penalty for making false statement.—Whoever shall make or file with the license collector, under the provisions of this article, a false statement under oath, shall, on conviction thereof, forfeit his license and pay a fine not exceeding five hundred dollars; and it shall

be the duty of the license collector to carefully examine all statements filed with him and to prosecute all violations of this article according to law; provided, that before instituting any such prosecution he shall give the merchant an opportunity of explaining the statement and correcting it if inadvertently made; and if it shall appear to the license collector that such false statement was willfully and corruptly made, he shall report all the facts to the grand jury. (M. C., sec. 2083.)

Sec. 2205. **Article construed.**—The provisions of this article shall not be construed to authorize any person to carry on the business of a keeper of a dramshop of either first or second class, as defined by article four of this chapter. (M. C., sec. 2084.)

ARTICLE XII.

OF ORDINARIES OR RESTAURANTS.*

Sec. 2206. **Ordinaries defined.**—Ordinaries are places where meat, fruit or other articles of food are offered for sale, to be used, eaten or consumed in, or at said places. (M. C., sec. 2085.)

Sec. 2207. **Classes of ordinaries or restaurants—amount of licenses—time license covers.**—Ordinaries or restaurants are hereby divided into four classes: Ordinaries or restaurants of the first class are those with a seating capacity for one hundred or more patrons or guests; ordinaries or restaurants of the second class are those with a seating capacity for more than fifty and less than one hundred patrons or guests; ordinaries or restaurants of the third class are those with a capacity for seating twenty or less than fifty patrons or guests; ordinaries or restaurants of the fourth class are those with a capacity for seating twenty or less patrons or guests.

On all ordinaries or restaurants of the first class there shall be levied and collected as a license the sum of fifty dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the first class for a term of six months. On all ordinaries or restaurants of the second class there shall be levied and collected as a license the sum of thirty dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the second class for a term of six months. On all ordinaries or restaurants of the third class there shall be levied and collected as a license the sum of ten dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the third class for a term of six months, and on all ordinaries or restaurants of the fourth class there shall be levied and collected as a license the sum of five dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the fourth class for a term of six months. (Ord. 20528, amending M. C., sec. 2086.)

Amended by ordinance 22596, approved Oct. 15, 1906 (too late to appear in this revision). See ordinance in Appendix to Rev. Code.

Sec. 2208. **Penalty for doing business without proper license.**—Any person or persons, firm or corporation who shall carry on the business

*City's authority to license, tax and regulate ordinaries: Charter, Art. III, sec. 26, clause fifth.

of an ordinary or restaurant of any said classes without first obtaining a license therefor from the License Collector, or who, under a license for an ordinary or restaurant of one class, shall carry on the business of an ordinary or restaurant of a higher class, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars. (*Ib.*)

Amended by ord. 22596. See preceding note.

ARTICLE XIII.

OF PAWNBROKERS.*

Sec. 2209. Pawnbroker defined.—Any person who loans money on deposit of personal property, or who deals in the purchase of personal property on condition of selling the same back again at a stipulated price, or who makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business, to wit: "Three gilt or yellow balls," or who publicly exhibits a sign of "Money to loan on personal property or deposit," is hereby declared to be a pawnbroker. (M. C., sec. 2087.)

Sec. 2210. License and affidavit required.—No person shall do business as a pawnbroker in the city without having first obtained a license therefor; such license shall conform to those now in use as provided by ordinance, with a form of affidavit attached thereto, which the applicant shall subscribe and make oath that he will faithfully carry out the provisions of this article. (M. C., sec. 2088.)

Sec. 2211. Bond to be given.—Every person to whom a license shall be granted to carry on the business of a pawnbroker shall annually enter into bond to the city, with good and sufficient security, to be approved by the license collector, in the penal sum of one thousand dollars, conditioned that he will duly observe all such ordinances as may be passed or in force respecting pawnbrokers. (M. C., sec. 2089.)

Sec. 2212. Register to be kept and tickets given.—Every pawnbroker shall keep a register of all loans and purchases of all articles effected or made by him, which register shall show the date of all loans or purchases, and the names of all persons who have left any description of property on deposit as a collateral security or as a delivery on sale thereof. Opposite such name and date shall be written in plain hand a full description of all such property purchased or received on deposit as collateral security, the time when the loan falls due, the amount of purchase money, the amount loaned and the interest charged. In addition to this, he shall give the party negotiating or selling a plain written or printed ticket for the loan, and a plain written or printed receipt of the articles purchased, having on each a copy of the entries required by ordinance to be kept in

*Authority of city to license, tax and regulate pawnbrokers: Charter, Art. III, sec. 26, clause 5. State pawnbroker laws: R. S. 1899, secs. 8858-8860. Ordinance provisions of St. Joseph upheld as constitutional and as being a police regulation; see *St. Joseph vs. Levin*, 128 Mo. 588. The usury act of 1891, p. 170, applies to pawnbrokers; if more than two per cent per month is charged, the security is released, because the pledge becomes "invalid and illegal," and the owner is not required to tender the amount due and interest, before suing in conversion: *Hilgert vs. Levin*, 72 Mo. App. 48.

his register. For the ticket or receipt he shall not be entitled to make any charge. (M. C., sec. 2090.)

Sec. 2213. Register open to inspection.—The said register shall at all times be open to the inspection of the mayor, chief of police, city attorney, sheriff, marshal or constable, within or for the City of St. Louis, or any or either of them, or of any person who shall be duly authorized in writing for that purpose by any or either of them, and who shall exhibit such written authority to the pawnbroker. (M. C., sec. 2091.)

Sec. 2214. License and conditions of issue.—Every pawnbroker shall pay a license to the city at the rate of four hundred dollars per annum; provided, no license shall be issued for less than six months; and provided, that every application for a license shall be made in writing to the license collector, and shall state where the business is to be carried on; and before any license shall be issued the license collector shall procure from the police commissioners an indorsement on the back of the application therefor, to the effect that in their opinion the applicant has a good moral character. (M. C., sec. 2092.)

Sec. 2215. Certain pledges prohibited.—No pawnbroker shall receive by way of pledge or pawn any goods, articles or things whatever from a minor at any time, nor from any person between the hours of eight o'clock p. m. and seven o'clock a. m. (M. C., sec. 2093.)

Sec. 2216. Loans on parts of article prohibited.—No pawnbroker shall make any loan on the separate or divided part or parts of any article. (M. C., sec. 2094.)

Sec. 2217. Statement to license collector; place of business.—Every pawnbroker doing business under the provisions of this article shall file with the license collector the street and number where his business is carried on, and shall not be allowed to have more than one place for transacting the business of pawnbroker, without having first obtained a license for such place of business, nor shall it be lawful for any one to act as agent for a pawnbroker at any other place than the stated place of business filed with the license collector. (M. C., sec. 2095.)

Sec. 2218. Penalty.—Any pawnbroker who shall neglect, violate or refuse to comply with any or either of the provisions of this article shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than fifty nor more than five hundred dollars, and in addition thereto his license may be forfeited to the use of the city, if it be so adjudged by the mayor. (M. C., sec. 2096.)

ARTICLE XIV.

OF PEDDLERS AND HAWKERS.*

*As to city's authority to license, tax and regulate, see Charter, Art. III, sec. 26, clause 5. Rev. St. 1899, sec. 6146, prohibits all cities from collecting any tax, license or fees from a farmer or producer for sale of produce raised by him when sold from his own wagon or by person in his employ; and sec. 8861 *et seq.* of R. S. 1899 defines who are peddlers and regulates licensing them; and it is held, in *St. Louis vs. Meyer*, 185 Mo. 583, that persons coming within the protection of these statutes, and not taxable or licensable thereunder, cannot be declared to

be peddlers or hawkers by ordinances so declaring, and that hence the provisions below (forming this article) are void in so far as they attempt to impose on a farmer, coming to the city and selling his own produce, a license, tax or fee; the court also holds, in that case, that the terms "peddler" and "hawker" are equivalent in law, and also that the State law prevails, although passed after the charter was adopted; also that a farmer selling his goods is not engaged in the business of a peddler or hawker as defined in the ordinance, that being a mere incident to his business as farmer.

As to who are peddlers under the provisions of R. S. 1899, sec. 8861, see *St. Louis vs. Meyer*, supra; *Moberly vs. Hoover*, 93 Mo. App. 663; *State vs. Snoddy*, 128 Mo. 523, following *State vs. Emmert*, 103 Mo. 241; agent selling for his firm not peddler: *State vs. Hoffman*, 50 Mo. App. 585 (various definitions given in main and dissenting opinions); articles manufactured in another state; *State vs. Snoddy*, supra; *State vs. Emmert*, supra; *State vs. Welton*, 55 Mo. 288; *State vs. Parsons*, 124 Mo. 436.

Sec. 2219. License required—misdemeanor—penalty.—It shall not be lawful for any person to carry on the business of a peddler or hawker without obtaining a license therefor, and any person who shall so carry on the business of peddler or hawker without first having obtained a license, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall pay a fine of not less than twenty-five dollars, nor more than one hundred dollars. (M. C., sec. 2097.)

Sec. 2220. Peddlers defined.—Every person who shall deal in the selling of patent or other medicines, goods, wares and merchandise, except books, charts, maps and stationery, is declared to be a peddler. (M. C., sec. 2098.)

See cases and statutory provisions cited in note to the heading of this article; section inconsistent in part with State law: *St. Louis vs. Meyer*, 185 Mo. 583.

Sec. 2221. Hawkers defined.—Any person who sells or offers for sale in any wagon, vehicle or other conveyance, drawn by hand or otherwise, in streets, alleys or other thoroughfares or public places, by outcry or by going from place to place in the city, any fruit, vegetable, poultry, game, and ice cream, or other articles of food, is hereby declared to be a hawker. (M. C., sec. 2099.)

"Hawker" and "peddler" are usually equivalent terms in law: *State vs. Meyer*, 185 Mo. 583, 595.

Sec. 2222. License—amount—regulations.—There shall be levied and collected of every person carrying on the business of a peddler or hawker, who carries the goods he offers for sale on foot or in push cart, the sum of ten dollars, and there shall also be levied and collected of every person carrying on the business of peddler or hawker, who carries the goods he offers for sale in one-horse wagon, or other vehicle, the sum of fifteen dollars, and for a two-horse wagon or other vehicle the sum of twenty-five dollars, the payment of which shall entitle such peddler or hawker to a license for a period of twelve months, and shall exempt him from the payment of a license for such vehicle. Every such license shall show the place of residence of such peddler or hawker, and such peddler or hawker shall have his name and the number of his license painted conspicuously on both sides of his wagon, or other vehicle, and shall carry such license with him and exhibit the same whenever required by any police or other officer authorized under the law or ordinances to make arrests. Any wagon peddler duly licensed under this article may have one driver to assist him, but no other assistants, while engaged in peddling or hawking, and only one person

shall engage in peddling or hawking as foot peddler or with push cart under any license issued in pursuance of this article. (M. C., sec. 2100.)

See note to article heading. This section was amended too late for insertion in the Code (after its submission to the Municipal Assembly) by ord. 22574, approved Oct. 2, 1906, the amendment adding at the end of the section the words: "said license to run from the first day of June of each year." (See Appendix.)

Sec. 2223. Penalty.—Any person violating the provisions of this article shall be deemed guilty of a misdemeanor, and shall be punished as prescribed in this article, and in addition thereto shall forfeit his license, and no license to engage in such business shall be issued to him within one year after such forfeiture. (M. C., sec. 2101.)

Sec. 2224. Vehicle to be of dark color—flags, etc., prohibited.—No peddler or hawker shall be permitted to carry the articles offered by him for sale in any wagon, vehicle or other conveyance, drawn by hand or otherwise, unless the said wagon, vehicle or conveyance be one of uniform dark color; nor shall he be permitted to affix to or have on or about said wagon, vehicle or conveyance, any flag, ribbons, poles or other things calculated in any manner to scare or frighten horses, mules or oxen in the streets or other places within the city. And such wagon, vehicle or conveyance shall have placed conspicuously upon it at all times a number corresponding with the number of the hawker's or peddler's license. (M. C., sec. 2102.)

Sec. 2225. Sales—times of prescribed.—No peddler, hawker, vender, or huckster shall cry or offer for sale his or her wares or merchandise, after nine o'clock p. m. of any day except Saturday, when they shall be allowed to cry or sell their wares or merchandise until eleven o'clock p. m.; provided, nevertheless, that no peddler, hawker, huckster or vender of any kind of merchandise shall be allowed to cry his or her wares, or stop, or remain, or engage in selling, or offering to sell, any kind of merchandise in the streets and alleys of the territory bounded by Clark avenue on the south, Wash street on the north, Fourth street on the east and Seventh street on the west, from eight o'clock a. m. to six o'clock p. m.; provided, further, that nothing herein contained shall be construed to permit hawkers or peddlers to sell or offer for sale by outcry or by going from place to place on the public streets or alleys in the city, any fruit, vegetables or other articles of food or merchandise on a Sunday. Any peddler, hawker, vender or huckster who shall violate this article shall be fined ten dollars for each offense or violation. (M. C., sec. 2103.)

Sec. 2226. Person doing business without license to be arrested.—It is hereby made the duty of the marshal and members of the metropolitan police force, to arrest any person whom they shall find carrying on the business of a peddler or hawker without license or violating any of the provisions of this article. (M. C., sec. 2104.)

Sec. 2227. Register to be kept open for inspection.—It shall be the duty of the license collector to keep a register, in which shall be entered the names of all persons to whom he shall issue a license as peddler or hawker, their place of residence, respectively, the time for which such license was issued, and its number, which register shall be open at all times to the inspection of the marshal or his deputies, or the board of police commissioners, or any member of the police force on the written request of the chief of police. (M. C., sec. 2105.)

Sec. 2228. **Term of license.**—No license shall be issued under this article for a less period than twelve months, except such persons who hawk or peddle their goods, wares or merchandise on foot whose license shall be for six months, and except in case of peddlers or hawkers, who carry their goods on foot, who, if upon a full statement of the facts, appear to the license collector worthy of charitable consideration, and that the applicants are truly unable to pay license for the full period stated, in such cases the license collector, with the approval or upon the recommendation of the mayor, is authorized to issue licenses for shorter periods, not less than one month, at pro rata rates. (M. C., sec. 2106.)

Sec. 2229. **License not transferable.**—No license shall be assignable or transferable; nor shall the license taken out for a one-horse wagon, under any circumstances, be used or recognized for any portion of the license for a two-horse wagon. (M. C., sec. 2107.)

Sec. 2230. **Penalty.**—Any violation of any section of this article, for which a penalty is not provided for, shall be deemed to be a misdemeanor, and the person or persons deemed guilty thereof, and upon conviction before either of the police justices of this city, shall be fined in a sum not less than fifty nor more than five hundred dollars for each and every violation, to be collected and paid as provided by charter and ordinance. (M. C., sec. 2108.)

ARTICLE XV.

OF RAILROAD TICKET BROKERS.*

Sec. 2231. **License required.**—No person or copartnership of persons or company shall exercise within the City of St. Louis the business of broker or dealer in railway, railroad or steamboat passenger tickets without a license therefor as hereinafter provided. (M. C., sec. 2109.)

Sec. 2232. **Railroad ticket broker defined.**—A railroad ticket broker or dealer is one who buys and sells or otherwise deals in railroad, railway or steamboat passenger tickets which may be lawfully sold by others than the duly authorized agents of the railroad or steamboat line over which such tickets purport to entitle the lawful owner to ride. (Ord. 21349, amending M. C., sec. 2110.)

Sec. 2233. **Amount of license—period and terms.**—There shall be levied and collected on every license granted under this article the sum of fifty dollars before the delivery thereof. Each license shall be granted for one year, and on its face shall plainly express that it will be forfeited by any violation of this article, and shall also show plainly the time when it shall expire, together with the name of the person authorized to do business under the license, as also express on its face that the license shall entitle the person named therein to carry on the business of ticket broker at the office only. (M. C., sec. 2111.)

Amended by ord. 22600, approved Oct. 15, 1906 (too late to appear in the revision. See Appendix).

*See Charter, Art. III, sec. 26, clause 5.

Sec. 2234. Regulations as to what business permissible and manner of procedure—bond required—revocation of license.—No railroad ticket broker or dealer, or person authorized to do the business of a railway ticket broker or dealer, under license issued pursuant to this article, shall buy, sell or deal in any railroad, railway or steamboat passenger tickets except such as have been issued by some existing railroad or steamboat company, corporation, association, or person or persons owning or operating the same; nor shall any such railroad ticket broker or dealer buy, sell or otherwise deal in or solicit the purchase or sale of any railroad or railway or steamboat passenger ticket which is by its terms plainly expressed on its face a mileage, excursion or commutation ticket where it appears upon such ticket that the same was issued and sold below the regular schedule rate under contract with the original purchaser, entered upon such ticket, and signed by such original purchaser, that such ticket is non-transferable and void in the hands of any other person than the original purchaser thereof; and every railroad ticket broker or dealer shall furnish to the buyer of any ticket sold by such broker or dealer a schedule signed by the name of the broker or dealer, describing the form and number and destination of such ticket and the name of the company that issued such ticket; and every broker within the meaning of this article shall immediately refund to the purchaser or lawful agent of the purchaser of any ticket the money paid to such broker for any ticket which did not entitle the person purchasing the same from said broker to use the same for passage on the railroad or steamboat for which such ticket was sold. No license shall be granted under this article until the person or persons applying therefor have filed with the license collector, a bond, with two good and sufficient securities to be approved by him, in the sum of one thousand dollars, conditioned for the faithful observance of all the terms and provisions of this section and article.

The mayor shall have power and authority for any good cause shown to revoke any license issued under this article, and the mayor shall revoke any such license for cause for a violation of any of the terms and conditions of this section, or the failure on the part of any such broker to perform any of the acts required by this section to be performed by him, and upon such revocation the mayor shall certify the same to the license collector; provided, however, that before any license is revoked by the mayor the licensee or licensee under such license shall have a reasonable opportunity to be heard by the mayor in defense of any charge or charges of a violation of this article which may be preferred before said mayor. Each license issued by virtue of this article shall express on its face that it is received and held subject to revocation by the mayor. No person or persons whose license has been revoked shall be entitled to another license within one year after such revocation, and the license collector is hereby prohibited from issuing any license to any person or persons whose license has been revoked within one year from such revocation. (Ord. 21349, sec. 2, amending ord. 20544.)

Sec. 2235. Penalty.—Every person doing business as a railroad ticket broker or dealer, without a license, or in any way violating the provisions of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars. (*Ib.*, sec. 3, amending M. C., sec. 2113.)

ARTICLE XVI.

OF STEAMBOAT, HOTEL AND RAILROAD RUNNERS.*

Sec. 2236. License required.—No person shall exercise within the city the business of a steamboat agent or runner on any steamboat, wharfboat or wharf, or the business of a hotel or railroad runner without a license therefor, as hereinafter provided; but no more than one license shall be required of the same person at one time under this article; provided, that every application for a license shall be made in writing to the license collector, and before any license shall be issued the license collector shall procure from the police commissioners an indorsement on the back of the application therefor, to the effect that in their opinion the applicant is a person of good moral character. (M. C., sec. 2114.)

Sec. 2237. Runners defined.—Any person who shall solicit the removal or transportation of any passengers or persons to or from any steamboat, railroad, wharfboat or wharf, or shall perform such removal or transportation, or shall act, or profess or assume to act for or solicit or obtain passengers for any steamboat, steamboat company, water transportation company, or attempt to do so as [is] a steamboat and railroad agent or runner; provided, that nothing herein contained shall apply to steamboat freight agents, nor to the owner or owners of licensed vehicles in the legitimate and quiet discharge of their duties. Any person who shall solicit travelers or other persons to repair to any hotel is a hotel runner. (M. C., sec. 2115.)

Sec. 2238. Duties of runners.—Every steamboat and railroad agent or runner and hotel runner shall handle with care and deliver promptly all baggage intrusted to him, and shall treat all passengers with respect and civility, and afford them all needful information and assistance, and deliver those transported by him with care and promptness. (M. C., sec. 2116.)

Sec. 2239. Respectful manner required.—No steamboat and railroad agent or runner or hotel runner shall exercise his business otherwise than in a quiet, civil, orderly and respectful manner at all times and places. (M. C., sec. 2117.)

Sec. 2240. Bond.—No license shall be granted under this article until the person applying therefor shall have filed with the license collector a bond with two or more good and sufficient sureties, to be approved by said collector, in the sum of one thousand dollars, conditioned for the faithful observance of this article. Said bond shall be in form to be approved by the city counselor. (M. C., sec. 2118.)

Sec. 2241. Amount and period of license.—There shall be levied and collected on every license granted under this article the sum of fifty dollars before the delivery thereof. Each license shall be granted for one year, and on its face shall plainly express that it will be forfeited by any violation of this article, and shall also show plainly the time when it shall expire. (M. C., sec. 2119.)

Sec. 2242. License, for hotel runner, may be transferred, when.—A license paid for by any hotel keeper in the name of any person as hotel runner may be transferred by the license collector to any other person in the

*Power of city to license runners, etc.: Chart., Art. III sec. 26, clause 5.

employment of said hotel keeper upon filing a new bond and payment to the collector the sum of one dollar for said transfer. (M. C., sec. 2120.)

Sec. 2243. **License not transferable, when.**—No license of any steamboat, railroad or hotel runner shall be assignable or transferable. (M. C., sec. 2121.)

Sec. 2244. **License to be exhibited, when.**—Every Steamboat and railroad agent or runner and hotel runner shall, on demand, exhibit his license to any police officer, steamboat or railroad, and permit the same to be examined, but not more than one demand therefor shall be made by any one person on the same day. (M. C., sec. 2122.)

Sec. 2245. **Space for runners in depot.**—It shall be the duty of the police commissioners to designate a space at all passenger depots within which all runners shall be compelled to stay during the time of the arrival and departure of trains, and they shall not be allowed to solicit business from any other place than that set aside by the police commissioners. (M. C., sec. 2123.)

Sec. 2246. **Penalty.**—Every person violating the provisions of this article shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and at the discretion of the mayor his license shall be forfeited. (M. C., sec. 2124.)

ARTICLE XVII.

OF STOCKYARDS, SALES STABLES AND HORSE AND CATTLE DEALERS.*

Sec. 2247. **Stockyard proprietor defined.**—A stockyard proprietor is a person, firm or corporation, whose business or occupation is to keep a stockyard where horses, mules, cattle, hogs or sheep are bought, sold, bartered or traded, or are kept or bartered for compensation. (M. C., sec. 2125.)

See cases in foot note below.

Sec. 2248. **A sale stable defined.**—A sale stable is a place where horses or mules are stabled to be bought, sold, bartered or traded as a business. (M. C., sec. 2126.)

St. Louis vs. Knox, 6 Mo. App. 247, 248.

Sec. 2249. **Horse and cattle dealer.**—A horse and cattle dealer is a person who buys or sells, barters or trades in horses, mules, cattle, hogs or sheep on his own account, without being the keeper of a stockyard or a sale stable. (M. C., sec. 2127.)

Sec. 2250. **License of stockyard.**—The proprietors of each stockyard in the city shall pay to the license collector in advance an annual city license therefor of one hundred and fifty dollars. (M. C., sec. 2128.)

This section was amended (too late to appear in this revising ordinance) by ord. 22599, approved Oct. 15, 1906, the amendment adding the words: "said license to run from the first day of January of such year." (See Appendix.)

*Authority of city to license, tax and regulate occupations: Chart., Art. III, sec. 26, clause 5. The provisions of this article are upheld as valid police regulations, in St. Louis vs. Knox, 6 Mo. App. 247; see s. c., 74 Mo. 79.

Sec. 2251. License for sales stable.—The proprietor or keeper or the proprietors or keepers, of each sale stable in the city shall pay in advance an annual license therefor of twenty-five dollars. (M. C., sec. 2129.)

This section was amended (too late for insertion in this revising ordinance) by ord. 22598, approved Oct. 15, 1906. (See Appendix.) The amendment adds the words: "said license to run from the first day of January of such year."

Sec. 2252. License of horse and cattle dealers.—Each person or persons, copartnership or corporation engaged in the city in the business of horse and cattle dealer or dealers, as defined in this article, shall pay in advance an annual license therefor of twenty-five dollars. (M. C., sec. 2130.)

Amended by ord. 22601, approved Oct. 15, 1906, by adding same words as per amendments in the two preceding notes. (See Appendix.)

Sec. 2253. Licenses required to conduct business.—No proprietor or keeper of a stockyard or of a sale stable, and no horse and cattle dealer shall engage or continue in business as such respectively, without first having obtained a license therefor as herein prescribed. (M. C., sec. 2131.)

Sec. 2254. Certificate of character required for sale stable.—Before the license collector shall issue any license in favor of a sale stable he shall procure the certificate of the board of police commissioners to the effect that the applicant is a person of good moral character. (M. C., sec. 2132.)

Sec. 2255. Penalty for doing business without a license.—Every person, firm, or corporation who shall engage in or do business either as the proprietor or keeper of a stockyard or of a sale stable or as a horse and cattle dealer without first having obtained from the license collector a license therefor as herein prescribed, shall be deemed guilty of a misdemeanor, and upon conviction, shall pay a fine of double the amount of the license required to be paid by them respectively. (M. C., sec. 2133.)

St. Louis vs. Knox, 74 Mo. 79.

Sec. 2256. What livery stable keeper exempt.—This article shall not be construed so as to include the keepers of livery stables who pay an annual vehicle tax of fifty dollars or more. (M. C., sec. 2133a.)

ARTICLE XVIII.

OF STREET RAILWAY COMPANIES*

*As to police regulations affecting street cars, see ante, R. C., secs. 1863, 1903, 1617.

The Charter gives express authority to the city to license, tax and regulate street cars: Charter, Art. III, sec. 26, clause 5. (For other powers over street railways, see Charter, Art. X; Constitution, Art. XII, sec. 20; see also Charter, Art. III, sec. 26, clause 11.) The city may impose a license tax under the power to license, tax and regulate street cars, for purposes of either police regulation or for revenue only, and this in addition to an ad valorem tax on cars and payments or obligations assumed by the companies in the franchise ordinance, evidencing the consent of the city to the operation of the cars; and an exemption from license taxes, if it is not absolutely void, must be clearly and

explicitly stated in the ordinance or it will not be held to have been given: *Springfield vs. Smith*, 138 Mo. 645; *Kansas City vs. Corrigan*, 18 Mo. App. 206; *Metropolitan Street Ry. vs. New York*, 199 U. S. 1; *New Orleans Street Ry. vs. New Orleans*, 143 U. S. 192; *Savannah Ry. vs. Savannah*, 198 U. S. 392; *Railway vs. Philadelphia*, 101 U. S. 528.

As to the effect of a clause in the City Charter (Art. III, sec. 26, clause 11; see 151 Mo. 181) reserving the power to alter, amend or repeal the grant, etc., see: *Railway vs. Philadelphia*, 101 U. S. 528; *Citizens' Bank vs. Owensboro*, 173 U. S. 636, 644; *Railroad vs. Georgia*, 98 U. S. 365; *Street Ry. vs. Sioux City*, 138 U. S. 93; *Detroit vs. Ry.*, 184 U. S. 368; *San Antonio Trac. Co. vs. Altgelt*, 200 U. S. 304.

As to the right to have the license tax take the particular graduated form of the present ordinances (one mill per passenger on each car, instead of a fixed amount), see somewhat analogous cases: *Amer. Exp. Co. vs. St. Joseph*, 66 Mo. 675; *Aurora vs. McGannon*, 138 Mo. 38; *Society vs. Coite*, 6 Wall. 594; *Maine vs. Gr. T. Ry.*, 142 U. S. 217, 228-229; *Home Ins. Co. vs. N. Y.*, 134 U. S. 594.

But in the cases of *United Rys. Co. et al. vs. St. Louis* (Nos. 4985, 4987, 4988, East. Div. of East. Dist. Mo.), the U. S. Circuit Court, per Adams, J., held, on temporary injunction, afterwards made permanent by Finklenberg, J., that the present license tax ordinance on street cars (ord. 21087) was invalid as to the United Railways Companies and Suburban Companies, on the ground that the ordinances operated to impair the obligations of the contracts assumed in the franchise ordinances under which these companies were doing business. These cases are now pending on appeal to the U. S. Supreme Court at this writing. Since these companies (now all absorbed into and forming part of the system of the United Railways Co.) were about the only ones to which the license tax ordinances could apply, the said decision, if it be sustained by the U. S. Supreme Court, practically nullifies the ordinance.

Sec. 2257. Street railway license required.—Every person, co-partnership, association, corporation or company engaged in the business of transporting passengers from one point to another within the city, for hire, on street railways, shall pay a license to said city. (Ord. 21087, amending M. C., sec. 2134.)

Sec. 2258. License tax on each car—how determined.—All persons, co-partnerships, associations, corporations and companies embraced in the foregoing section shall pay the license collector a quarter-annual license for each and every car used by them in transporting passengers, payable on the sixteenth day of April, July, October and January of each year, for the preceding period of the three months ending respectively on the last day of the preceding March, June, September and December, the amount of which quarterly license on each such car shall be determined at a sum equal to one mill for every revenue or pay passenger carried on such car during the said preceding period of three months, ending as aforesaid. (Ord. 21087, amending M. C., sec. 2135.)

See note to heading of article as to the validity of this section.

Sec. 2259. Equipment enabling information as to number passengers carried—report required—when made.—On and after January first, nineteen hundred and three, every person who, and every corporation, company or association which, is required to pay a street car license, shall provide for, and equip each car used by it for transportation or carrying passengers, with a suitable register or indicator, capable of registering passengers to a number not less than nine thousand nine hundred and ninety-nine, and upon which shall be registered, rung up or indicated in continuous numerical succession the number of passengers who have paid for transportation on such car; and the conductor or person collecting the fare shall ring up or register each passenger as the fare is collected.

After said time above stated, every such person, corporation, company

or association shall each day furnish the register of the City of St. Louis with a report or table showing the number of pay or revenue passengers transported on each respective car operated by it on the preceding day, each such car to be identified by its number; said report or table shall also show the number or figures shown on the passenger register or indicator at the time each such car started on its first trip for the day covered by said report, to be designated as beginning number; and also the number of figures shown on the said passenger register or indicator when said car was discontinued from carrying passengers on said day, which shall be designated as closing number.

The report or table for a day preceding a legal holiday or a Sunday shall be furnished on the first secular day thereafter.

If the furnishing of the table or report on the day provided for in this section becomes impossible by reason of circumstances beyond the control of the person or company required to furnish the same, then it shall be furnished as soon thereafter as possible. (Ord. 21087, sec. 2135A.)

Sec. 2260. What officials authorized to test correctness of reports and returns, and in what manner—compensation.—The comptroller of the City of St. Louis, or he, acting through his authorized deputies, shall be, and hereby is, authorized to investigate the correctness and accuracy of the returns or reports required in the preceding section, and for that purpose shall have access at all reasonable times to the registers, books, documents and reports bearing on the same, of any person, company or association required to make such report or table; and may appoint temporary inspectors, not exceeding six, to make note of, check up and verify the figures and numbers shown by the passenger registers or indicators in the street cars, and assist in a proper investigation, whenever he so desires; said inspectors shall receive for their services a compensation of three dollars per day each, while employed, and shall be employed or discharged at the pleasure of said comptroller. (Ord. 21087, sec. 2135B.)

Sec. 2261. Failure to report, or interfering with investigation misdemeanor—penalty.—Every person, corporation, company or association refusing or neglecting to make the report provided for in section 2259, or making any false or fraudulent report, or interfering in the performance of the duties of the comptroller, deputies or inspectors provided for in section 2260, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than five nor more than five hundred dollars. (Ord. 21087, sec. 2135C.)

Sec. 2262. License collector to give notice to pay license—failure to pay license misdemeanor—penalty.—On the sixteenth day of April, July, October and January of each year the license collector shall notify all persons, companies, corporations or associations required to pay a street car license, to pay such license; and any of them refusing, failing or neglecting to pay said license within ten days after having received said notice, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars; and each day of such failure, neglect or refusal shall constitute a separate offense. (Ord. 21087, sec. 2136.)

Sec. 2263. Failure to operate as revocation of license, when.—A failure, refusal or neglect to pay such license for thirty days after the same is payable shall operate as a revocation of any existing or subsequent

unpaid license such parties may have obtained to operate such street cars in this city. (Ord. 21087, sec. 2137.)

Sec. 2264. Article not to affect obligations under special ordinances or franchise agreements.—Nothing in the preceding sections 2258, 2259, 2260, 2261, 2262 and 2263 shall be construed as exempting or excusing any person, co-partnership, corporation, association or company embraced therein from the payment of any sum agreed, assumed or required to be paid by the terms of any special ordinance, or agreement or contract, nor as replacing or affecting the same in any way, nor shall said sections be construed as impairing or affecting any license heretofore obtained. (Ord. 21087, sec. 2137A.)

The ordinance was not approved until March 25, 1903, so that it affected only licenses required after January 1, 1904.

ARTICLE XIX.

OF VAULT CLEANERS.

Sec. 2265. License required.—No person shall hereafter do business as a vault or privy cleaner without first having obtained a license therefor. (M. C., sec. 2138.)

Sec. 2266. Amount of license—requisites—authority.—Such license shall be issued only on the payment of one hundred dollars, and upon the filing of the bond with security hereinafter provided, and when issued shall authorize the person therein designated to carry on the business of vault and privy cleaning for the term of one year from the date of such license, according to the ordinances of the city and the regulations made from time to time by the board of health. (M. C., sec. 2139.)

Sec. 2267. Bond and conditions.—Before receiving such license the applicant shall enter into and file with the city register a good and sufficient bond, with security, to be approved by the mayor in the penal sum of one thousand dollars, conditioned for the due observance of all such ordinances and regulations by the proper city authorities as may be passed or in force in reference to the cleaning of vaults or privies at any time during the continuance of such license, and for the payment of damages caused by the non-observance of any ordinance or regulation now existing, or which may hereafter be passed. (M. C., sec. 2140.)

Sec. 2268. Vault cleaning—manner of doing.—The cleaning of all vaults or privies shall be done in such manner and time as is or may be prescribed by ordinance or regulated by the board of health, which for that purpose is vested with full power to make the necessary rules, and which said board of health is charged with seeing that the work of cleaning is performed without creating a nuisance, and in as inodorous a manner and as free from foul odors and gases as possible. (M. C., sec. 2141.)

Sec. 2269. Penalty.—Any person violating any of the provisions of this article, or any such rules or regulations of the board of health, shall be fined not less than twenty dollars nor more than three hundred dollars for each offense, and shall also be liable on his bond to any person especially damaged by the violation of such ordinance or regulation. (M. C., sec. 2142.)

ARTICLE XX.

OF SUNDRY VOCATIONS AND MISCELLANEOUS PROVISIONS.*

Sec. 2270. Vocations requiring license.—It shall not be lawful for any person to exercise within this city the business of bill poster, engraver, lithographer, photographer, mercantile agent, or keep a billiard table, pool table, pistol gallery, shooting gallery, or to own, conduct or manage for gain a theater or other exhibition show or amusement without a license therefor. (M. C., sec. 2143.)

Sec. 2271. Vocations subject to license defined.—The following definitions of phrases and words employed in this chapter are hereby adopted: A bill poster is one who conducts the business of posting bills in public places for hire. An engraver is one who carries on a place of business where engraving is done for hire. A lithographer is one who maintains a place of business where lithographing is done for hire. A menagerie is an exhibition of wild animals for which an admission fee is charged. A mercantile agent is one having a place of business in the city where orders for the sale and delivery of merchandise are taken. A musical entertainment is any public exhibition in which music is a feature, for which an admission fee is charged, not within the definition of a concert. A photographer is one who takes pictures, likenesses or representations of persons, objects or things, at a place in the city, whether inside or outside of any house, building or covered place or in the open air and charges or accepts a compensation therefor. A pistol gallery is a place where pistol or gun shooting is permitted to be done for hire. A pool table is a table on which the game of pool is played, maintained in a place accessible to the public, where a charge is made for the privilege of playing the game. A shooting gallery is a place where guns or pistols are permitted to be fired, for a fee paid. A side show is an entertainment connected with a circus or menagerie, and carried on under separate canvas or in a separate apartment. A theater is a building employed for dramatic or operatic exhibitions. (M. C., sec. 2144.)

Sec. 2272. Billiard table keeper defined.—A keeper of a billiard table is one who possesses or keeps or has the control or management of a billiard table, whereon others are permitted to play, and for the use of which or privilege of playing thereon, or for the hire thereof, any money or its equivalent, or any check or counter in lieu of money, shall be paid or received; and all billiard tables within the city shall be held and taken to be so kept, and to come within the meaning and province of this article, except such as may be kept within dwelling-houses for the owner's recreation, and not for the purpose of letting the same to others to play thereon for money, or anything representing or in lieu of money, or for wagers or bets. (M. C., sec. 2145.)

Sec. 2273. License required to keep billiard table.—There shall be levied and collected for every license to keep a billiard table, kept for hire as aforesaid, the sum of ten dollars; and each table shall be numbered, and the license for each table taken and paid for one year in advance. Whoever shall violate, or neglect or refuse, to conform and observe the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than fifty nor more than three hun-

*Chart., Art. III, sec. 26, clause 5. See also notes thereto.

dred dollars for each and every table that such person neglects or refuses to take out a license for, to be sued for and recovered as in other cases of breaches of city ordinances. (M. C., sec. 2146.)

As to right to regulate billiard halls, and games under the police power, see *Tarkio vs. Cook*, 120 Mo. 1.

Sec. 2274. Amount of license for specified vocations.—There shall be levied and collected for every license granted for any business or object herein specified, as follows:

First. Upon a bill poster's license, ten dollars.

Second. Upon a license for a pistol or shooting gallery, twenty-five dollars.

Third. Upon engraver's license, ten dollars.

Fourth. Upon lithographer's license, ten dollars.

Fifth. Upon a mercantile agent's license, one hundred dollars.

Sixth. Upon a photographers' license, twenty-five dollars.

Seventh. For each circus, circus and menagerie, or menagerie, three hundred dollars, and fifty dollars per day for each day in excess of one week.

Eighth. For each side show of any kind accompanying any circus, sixty dollars, and ten dollars per day for each day in excess of one week.

Ninth. Upon a license for theaters, theatrical exhibitions, museums or any other exhibition, show or amusement where an admission fee is charged; for one month, twenty-five dollars; for three months, seventy-five dollars; for six months, one hundred dollars; for one year, one hundred and fifty dollars; provided, however, that for any exhibition, show or amusement given for benevolent or charitable purposes, no license shall be required.

Tenth. For the amusement known as roundabout or flying horses, forty dollars, for a season not exceeding six months.

Eleventh. Upon a license to keep a pool table, ten dollars. (M. C., sec. 2148.)

Sec. 2275. Term of licenses.—Licenses granted under this article shall continue in force twelve months, except as otherwise provided. No license of any kind shall be issued for a shorter period than that specified in each instance in this article, except in such cases as upon a full statement of the facts appear to the license collector worthy of charitable consideration and that the applicants are truly unable to pay license for the full period stated. In such cases the license collector, with the approval or upon the recommendation of the mayor, is authorized to issue license for shorter periods, not less than one month, at pro rata rates. (M. C., sec. 2149.)

This section was amended by fixing the periods of the respective licenses: Ordinance No. 22576, approved Oct. 2, 1906, after the submission of the Revised Code to the Assembly. (See Appendix.)

Sec. 2276. Licenses to be subject to ordinances.—All licenses issued in pursuance of the provisions of this article shall be issued subject to the ordinances of the city existing when they are issued, or subsequently passed. (M. C., sec. 2150.)

Sec. 2277. Form of license.—All licenses shall be issued in blank by the register under the seal of the city, and signed by the license collector, and shall be as near as may be in the following form: “City of St. Louis, — I, — License Collector of the City of St. Louis, to all who shall see these presents, greeting: Know ye that whereas —, on the — day of —, in the year of our Lord —, paid to — the sum of — dollars, being the tax imposed on — as — otherwise complied with the requirements of the city ordinances in this behalf; therefore the said — is hereby authorized and empowered to — for the term of — months from —. In testimony whereof I have hereunto set my hand and caused the seal of the city to be affixed at the City Hall in said city this — day of — A. D. — (L. S.) —, License Collector. Attest: —, Register. And when any license shall be issued the officer issuing the same shall, underneath said license, add the following, which he shall sign: Granted this — day of — A. D. —. (M. C., sec. 2151.)

Sec. 2278. When license transferable—approved.—No license granted by this city, except cart, wagon or dray license, shall be assignable or transferable; nor shall any such license authorize any person to do business or act under it but the person named therein, nor at more than one place; and no assignment or transfer of any license shall be valid or give any right or permission to the assignee or transferee to act thereunder, unless such assignment or transfer shall be approved and countersigned by the license collector; and it shall be the duty of that officer to keep a registry of all assignments or transfers of licenses approved and countersigned by him. (M. C., sec. 2152.)

Sec. 2279. Penalty.—Whoever shall violate or neglect or refuse to conform to or observe the preceding provisions of this article, and any or either of them, shall be deemed guilty of a misdemeanor, and upon conviction thereof, except as otherwise provided, be fined not less than ten dollars nor exceeding three hundred dollars, to be sued for and recovered as in other cases of breach of city ordinances. (M. C., sec. 2153.)

Sec. 2280. License of foreign insurance companies.—The license collector shall collect of all foreign insurance companies doing business in this city by agency the tax authorized by an act of the general assembly of this state, viz.: One hundred dollars annually in advance; and any agent refusing or failing to pay said tax when called upon by the license collector for the same, shall be deemed guilty of a misdemeanor and on conviction thereof, be fined two hundred dollars, to be recovered as other fines are by the city. (M. C., sec. 2154.)

Licensing insurance companies, see R. C., sec. 2137. As to collecting revenue by license from foreign insurance companies, see *St. Joseph vs. Ernst*, 95 Mo. 360; *Kansas City vs. Oppenheimer*, 100 Mo. App. 527.

Sec. 2281. Application for license under this chapter.—Application for licenses under this chapter, as pawnbrokers, keepers of intelligence offices, museums, junk shops, auctioneers and keepers of shows, theaters and exhibitions of any kind whatsoever, shall be made in writing to the license collector, and shall state where the pawnbroker shop or other place, shop, show, theater or exhibition is to be kept or exhibited. (M. C., sec. 2155.)

Sec. 2282. Inquiry of license commissioner.—The license collector, upon receipt of such written application, shall make all due and

proper inquiry into the character of all such applicants for license, and shall not grant a license to such applicant or applicants for such license unless he has good and sufficient assurance and reason to believe of his own knowledge that all such applicants for such license are fit and proper persons to receive the same. (M. C., sec. 2156.)

Sec. 2283. Petition of block residents—when required.—

In addition to all other requirements of this article, the applicant or applicants for said license shall furnish to the license collector a petition signed by a majority of the residents of the block wherein said business is to be carried on, and also a majority of the residents of the portion of the block opposite said place of business, requesting the issuance of the said license, and declaring that the maintenance of said pawn shop, intelligence office, museum, junk shop, auction place, show, theater or exhibition of whatsoever kind, is not a nuisance or source of annoyance to said residents. (M. C., sec. 2157.)

Sec. 2284. Penalty.—Any person violating any of the provisions of this article where no special penalty is provided, shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than ten nor more than one hundred dollars. (M. C., sec. 2158.)

Sec. 2285. Penalty for not taking out license.—Any person who is required to take out a license, or any person whose license has expired, and notice has been given, by the license collector, shall, if not paid within ten days after such notice has been given, pay a penalty of one dollar, and for every ten days thereafter one dollar shall be added as a penalty, until the party required to take out such license shall have complied with the provisions of regulating licenses in this chapter; said penalty shall be collected with the license by the license collector and paid into the city treasury. (M. C., sec. 2159.)

Sec. 2286. Renters of booths in fair grounds—exempt—when.—The renters of booths in the fair grounds, who hold unexpired licenses to carry on similar business in other parts of the city, shall not be required to take out any additional licenses for carrying on the same business at booths in the fair grounds during fair week and exposition. In cases where the profits of any such booth during fair week and exposition is applied to charitable purposes, no license shall be required. (M. C., sec. 2160.)

Sec. 2287. License of fruit auctioneers.—Any person or persons or company of persons licensed as agents or dealers in fruit may obtain a license as fruit auctioneer upon the payment of one hundred dollars, which license shall continue in force for the period of one year, and no such person or persons or company of persons shall be permitted to sell fruit at public auction without first having obtained a license as fruit auctioneer. (M. C., sec. 2161.)

CHAPTER 32.

OF COLLECTOR.*

Sec. 2288. Register to give certificate of election.—The register shall give to the collector a certificate of his election, authenticated by the seal of the city. (M. C., sec. 2162.)

Sec. 2289. Official bond of collector.—The collector before entering upon the discharge of the duties of his office, shall give bond and security to the city for the faithful performance of his duties, conditioned that he will faithfully and punctually collect and pay over all state, school, municipal and other revenues, and other claims the city may have against any person during the time he shall be in office, and that he will in all things faithfully perform all duties of the office of collector according to law and ordinances. Such bond shall be in the sum of two hundred thousand dollars, with at least five solvent securities, who are owners of unincumbered real estate in the city, and shall be approved by the mayor and council. He shall also give bond in amount and security to the state to the satisfaction of the mayor, conditioned that he will faithfully and punctually collect and pay over all state, school, municipal and other revenues during the time he shall be in office, and that he will in all things faithfully perform all the duties of the office of collector, according to law. This bond shall be signed by at least five solvent securities, freeholders within the city, and be executed in duplicate, one of which shall be deposited with the register, and the other transmitted by the register to the state auditor, who shall carefully examine the same, and if it appears to his satisfaction that the bond is insufficient, he and the mayor shall require the collector to give additional bond, and if he fail to give additional bond within ten days after he shall have been notified, his office shall be declared vacant. Said bond when approved and recorded, shall be a lien against the real estate of the collector until he shall have complied with the conditions thereof. If the collector shall neglect or refuse to give such bond for fifteen days after his election, his office shall be declared vacant, and an election shall be ordered by the mayor to fill the vacancy. (M. C., sec. 2163.)

Bond requisites under Charter: Art. IV, sec. 24; Art. XIII, sec. 3; Art. V, sec. 30; see, also, R. S. 1899, sec. 9206 et seq. (Laws Specially Applicable to St. Louis, sec. 471 *et seq.*, ante, p. 185 and notes).

Sec. 2290. Collector to collect all revenues, except water rates.—The collector shall collect all revenues derived from all sources which may be levied by law or ordinance within the city, except water rates, and keep a detailed account of his collections from all the different sources of revenue and taxation respectively. All collections made belonging to the city shall be paid into the city treasury daily, and triplicate receipts taken therefor, showing from what source the money proceeds, and the account to which it is placed, one of which shall be filed with the auditor, and one with the comptroller. (M. C., sec. 2164.)

Charter requires him to collect all State, school and city taxes, licenses, wharfage and other claims and pay over to the treasury daily, etc.: Art. IV, sec. 24; Art. XIII, sec. 3 (school taxes); Art. IX, sec. 6 (wharfage). But under

*Charter provisions: See Art. IV, secs. 1, 24; Art. V, secs. 5, 8, 26, 30, 31, 32, 33, 34; Art. IX, sec. 6; Art. XIII, sec. 3; Scheme, secs. 8, 23. See statutory provisions: R. S. 1899, secs. 9334-9335 and in general R. S., Chap. 149, Art. III-VII. These statutory provisions, so far as relating specially to St. Louis, are herein before set out, with notes, in "Laws Specially Applicable to St. Louis," Chapter 26, Sec. 469 *et seq.*, pages 184-189.

Act 1893, p. 149, and amendments, all dramshop licenses are now under the jurisdiction of the excise commissioner: See as to dramshop licenses, R. C., Art. IV, Chap. 31, secs. 2150-2165, and by Laws 1901, pp. 80-82, licenses are to be collected by the License Collector. (See notes to R. C., Chap. 30, on this point.)

Sec. 2291. Rebate on tax bills.—For the purpose of carrying out the provisions of section thirty-two, of article five, of the charter of the City of St. Louis, the collector is hereby authorized and directed to make, on all tax bills for real and personal property on the assessment books, which shall be paid to him on or before the first day of October in each year, an allowance or rebate on the city taxes on said bills to the person or persons making such payment, at the rate of eight per centum per annum from the date of such payment to the thirty-first of December following, and the amount of such allowance or rebate shall be credited to the account of the collector, and charged to the respective revenue account. (M. C., sec. 2165.)

Sec. 2292. Deputies—number—collector responsible.—The collector shall have power to appoint such deputies as may be necessary to perform the duties of the collector's office; provided, however, that the number shall not at any time exceed fifty-four permanent deputies; and the collector may also revoke such appointments at his pleasure, and may require bonds or other securities from such deputies to secure himself; and each of such deputies shall have like authority in every respect to collect the taxes levied or imposed within the city or any part thereof which by law is vested in the collector himself; but the collector shall in every respect be responsible to the state, city, individuals, companies or corporations, as the case may be, for all moneys collected, and for every act done by any of his deputies while acting as such, and for any omission of duty by any of his deputies; said bond or security taken from a deputy by the collector shall be available to such collector, his representatives and securities, to indemnify them for any loss or damage arising from any act of such deputy. (M. C., sec. 2166.)

Charter, Art. V, sec. 33, and note. R. S. 1899, sec. 9217 (Laws Specially Applicable to St. Louis, sec. 482).

Sec. 2293. Books showing daily receipts to be kept.—The collector shall keep all necessary books in which to enter the daily receipts from taxes upon real and personal property, delinquent and forfeited taxes, licenses and all other taxes. The entries shall be made in such a manner as to show the total daily receipts from each source of revenue. (M. C., sec. 2167.)

Sec. 2294. Duties of register transferred to collector.—Under authority of sections twenty-four and thirty-four of the scheme for separating the City and County of St. Louis, all the powers and duties appertaining to the register of the City of St. Louis, with reference to the state, school and city taxes on merchandise and merchants' licenses in the City of St. Louis, are hereby transferred to, and shall be exercised by the collector of the City of St. Louis, except such duties relating thereto as are, or may be, conferred by ordinance upon the license collector. (M. C., sec. 2168.)

Sec. 2295. Compensation of deputies, etc.—The compensation of the deputies of the collector is hereby fixed as follows: One chief deputy at the rate of twenty-five hundred dollars per annum; one deputy at the rate of twenty-four hundred dollars per annum; one deputy at the rate of twenty-one hundred dollars per annum; one deputy at the rate of nineteen

hundred dollars per annum; one deputy at the rate of eighteen hundred dollars per annum; three deputies at the rate of seventeen hundred dollars per annum; three deputies at the rate of fifteen hundred dollars per annum; eight deputies at the rate of twelve hundred dollars per annum; three deputies at the rate of one thousand dollars per annum; two deputies at the rate of nine hundred and sixty dollars per annum; thirty deputies at the rate of nine hundred dollars per annum. (M. C., sec. 2169.)

Sec. 2296. Cost of collection to be paid as prescribed by state law.—The collector shall pay all salaries and other expenses of his office, and all other costs of collecting the respective revenues, in the manner prescribed by an act of the general assembly of the State of Missouri, approved May ninth, eighteen hundred seventy-nine, entitled, "An act to amend an act entitled an act to regulate the fees of collectors of state and county revenues," approved May second, eighteen hundred seventy-seven. (M. C., sec. 2170.)

See R. S. 1899, Chapter 149, Art. III-VII.

Sec. 2297. One deputy shall be a notary public.—One of the permanent deputies appointed by the collector under the provisions of section 2292 shall be a notary public, and shall administer all the oaths required to be made to the collector by state law and city ordinance, and no fee or compensation, other than the salary allowed him, shall be charged or collected by said deputy as such or as notary public, nor by any one for him, for administering such oaths. (M. C., sec. 2171.)

CHAPTER 33.

OF SECOND HAND DEALERS.

Sec. 2298. Second-hand dealers defined.—Any person, company or corporation doing business in the city, who purchase and sell goods of any kind or description, having once been used or transferred from the manufacturer to the dealer and then received into the possession of third parties, whether the same consists of cloths, carpets, clothing, rags, iron or other metals, furniture or articles of household utensils, or articles of personal use, or male and female wearing apparel, or of jewelry of any kind or description, or of old gold or silver, shall be and are hereby declared to be second-hand dealers. (M. C., sec. 2172.)

Sec. 2299. Registry of purchases required—penalty.—Every second-hand dealer shall keep a book of registry of all purchases by him or them made, when the same was made and from whom it was made, and their habitation or place of abode, with a full description of the person selling the same, and a full and accurate description of the goods or chattels purchased. Any failure to record a minute description as by this section provided, by the second-hand dealer, shall be deemed to be a misdemeanor, and upon conviction thereof, such second-hand dealer shall be fined in a sum not less than ten or more than one hundred dollars for each offense. For the purposes of this section, any failure of the servant, employe or agent to file such description as by this section provided, shall be deemed to be a violation of this section by the principal or second-hand dealer. (M. C., sec. 2173.)

Sec. 2300. Registry to be open to inspection.—The said book of registry shall be at all times open to the inspection of the mayor, chief of police, city attorney, city marshal, sheriffs or constables within or for the City of St. Louis, or of any person who shall be duly authorized in writing for that purpose by any or either of them, and who shall exhibit such written authority to the second-hand dealer. (M. C., sec. 2174.)

Sec. 2301. Offers to sell by suspicious characters to be reported.—In case any suspicious or known dishonest person shall offer for sale to any second-hand dealer, his employe, agent or servant, any article of value or virtue, and he or they have reason to believe from any circumstance that the same has been stolen or acquired by dishonest means, it shall be their duty to at once report the same to the chief of police or to the officer on the beat in which their place of business is located. Any failure to so report shall be deemed to be a misdemeanor, and the second-hand dealer, his servant, agent or employer upon conviction thereof, shall be fined in a sum not to exceed five hundred dollars. (M. C., sec. 2175.)

CHAPTER 34.

OF SEWERS.*

Sec. 2302. Sewers to observe requirements of this chapter—All sewers or drains which connect with or discharge into any public, district or joint district sewer, or which lie wholly or in part upon any public street, alley or highway, shall be constructed in accordance with the provisions of this chapter, and in conformity with the regulations of the sewer commissioner, who shall have general supervision of all such work. (Ord. 20668, amending M. C., sec. 2176.)

Sec. 2303. Permit—when required, what to contain, etc.—how obtained—plans for sewers to be approved—deposit required—lot owner takes risk of back water—back water trap required.—No person shall excavate around or under any public, district, joint district or private sewer, nor connect any private sewer therewith, nor construct or repair any sewer or drain on any public street, alley or highway, except under and in accordance with the terms and conditions of a permit so to do, issued by or with the authority of the sewer commissioner, which permit must be at all times on the ground while the work is in progress, and be shown to any policeman or other person who asks to see it. Permits for the construction or repair of private sewers or drains will be issued only to such persons, firms or corporations as have given the bond required to be given by drain layers, and who have a certificate or registration, upon the application of the owner of the property to be drained, or his duly authorized agent. All applications for permits must be made upon the blank forms furnished by the sewer department, written with ink, and must give a clear description of the property to be drained, of the sewers or drains to be constructed, and a list of the vaults, water-closets, sinks, down spouts and other fixtures to be connected therewith. If the sewer commissioner shall deem it necessary for such description, he may require a plan and profile of the proposed sewers, and all such plans, profiles and descriptions, or copies thereof, shall be left on file in the office of said commissioner.

*As to Sewer Commissioner and employes, see R. C., secs. 1955-1956, 1997, 2001, 2011. Charter provisions concerning sewers: See Charter, Art. VI, secs. 20, 21, 22, 23 and annotations thereto; *ib.* Art. III, sec. 26, clause 2. See Hill vs. St. Louis, 159 Mo. 159.

If the proposed sewers are in accordance with the provisions of this chapter and the plans thereof are approved by the sewer commissioner, he shall issue a permit for their construction, which permit shall contain, or be accompanied by the regulations and conditions under which the work is to be done; provided, however, that if the length of a proposed sewer upon any street, alley or highway shall exceed one hundred feet, or if the sewer is likely to be used by more than one party, or for any use not clearly specified in the application, the plans thereof must, before the permit is issued, be approved by the board of public improvements, and a sum of money paid into the city treasury sufficient, in the opinion of said board, to pay the cost of inspection, which sum shall be a special fund, out of which the sum of three dollars and sixty cents per day for the services of an inspector, appointed by the sewer commissioner to see that the work is properly done, shall be paid, and the remainder, if any, returned to the party making the deposit. All permits for sewer connections granted hereunder shall be given subject to the conditions that the lot owners take all risk of damage that may result from water setting back into their premises from the main sewers, and to prevent such setting back of water the owner shall be required, at his own cost, to put in a self-acting valve in all cases where a back flow from the main sewer may be apprehended; and it shall be the duty of the owner to keep the valve in condition for service at all times. The sewer commissioner shall furnish all information in the possession of his department as to the position, depth and grade of sewers, the position of junction pieces, and as to the liability of back water from the main sewer; but the correctness of such information is not guaranteed by the city. (Ord. 20668, amending M. C., sec. 2177.)

Charter, Art. VI, sec. 23.

Sec. 2304. No permit where unpaid assessment for sewer tax—exception—when tax presumed paid, etc.—No permit for a sewer connection under the preceding section shall be issued if the property to be drained by the proposed sewer, or any part thereof, has ever been assessed for the construction of district or joint district sewers until such assessment, or such part thereof as may be due at the time of application for a permit for a sewer connection, has been paid; but in cases where direct evidence of payment, either in full or in part, cannot be produced, a permit may be issued, if the owner of the property executes and files with the city register a bond sufficient in amount to secure the payment of each installment of the special tax bill, or bills with interest, as it or they become due, guaranteeing the uncontested payment of the assessment, upon presentation of the original special tax bill or bills or installment thereof, or if more than ten years have elapsed since the maturity of the last installment of such special tax bill, it may be presumed that the bill was paid, in the absence of evidence or information to the contrary. (*Ib.*, amending M. C., sec. 2178.)

Under its charter powers, the city has the right to enact the ordinance requiring the lot owner to pay the assessment before giving him a permit to connect; and the ordinance is valid, reasonable and proper: *Hill vs. St. Louis*, 159 Mo. 159, overruling *State ex rel. vs. Hermann*, 84 Mo. App. 1.

Sec. 2305. No permit to connect with district or joint sewer in course of construction except under certain conditions—special fund—when appropriated and when returned.—During the construction of any district or joint sewer, and prior to the assessment of the cost thereof, no permit for the construction of any private sewer to drain any lot of ground within the sewer district or joint sewer district, or to connect the same with any public, district, joint district or private sewer, shall be issued, unless the contractor for such district or joint

district sewer shall first join with the owner of the lot in making application for the permit; but the owner of any lot in such sewer district or joint sewer district may make a deposit in the city treasury of a sum sufficient in the opinion of the board of public improvements to cover the first installment of the assessment to be made, and any probable damages to the sewer, or the sewer contractor, which might result from making a connection, or from the use of the sewer before its acceptance by the city, and receive a permit without the consent of the contractor. Said sum deposited shall be a special fund, out of which shall be paid, on a voucher drawn in favor of the contractor and certified by the sewer commissioner, the amount of the first installment of the assessment against the lot drained, and such additional amount, if any, as will, in the opinion of the board of public improvements, compensate the contractor for any actual damage he may have sustained in consequence of such connection being made and used, and the remainder, if any, shall be returned to the party making the deposit. If the contractor shall not, within ten days after the acceptance of the work done under the contract, file a claim for damages with the sewer commissioner, and shall not within ten days after the date of the issue of the tax bill against the lot drained, accept a voucher in exchange for the receipted tax bill, the party making the deposit shall be entitled to receive a voucher for the whole amount so deposited upon presentation of the receipted tax bill at the office of the comptroller. (Ord. 20668, amending M. C., sec. 2178.)

Sec. 2306. Person having permit to comply with directions of commissioner—if work improperly done commissioner may reconstruct—cost to be recovered on bond—cancellation of right to do work as drainlayer.—Every person or party receiving a permit from the sewer commissioner shall faithfully comply with all regulations and instructions of said commissioner or his duly authorized agents in reference to such work and all the requirements of this chapter, and shall enforce the same upon his employes and be held responsible for all their acts. And in case any work under a permit shall be improperly done, and in violation of the conditions, or in case of any damage to any public, district or joint district sewer caused by such violation, either on the part of the person to whom the permit is issued or his employe, the sewer commissioner shall have the right to reconstruct such defective work and repair such damage, and the whole cost thereof, together with the costs of suit, shall be recovered by the city by suit on the bond given by such person as drainlayer. If any person or party who has given bond as drainlayer shall violate any of the conditions of a permit or any rule or regulation concerning the construction of private sewers or drains, wilfully, the sewer commissioner shall report the fact to the board of public improvements and said board shall thereafter suspend or cancel all rights of such drainlayer or plumber to receive permit to do work under the control of said board. (*Ib.*, amending sec. 2179.)

Sec. 2307. Work done without permit—effect of—recovery of damages, etc.—Any work done without the permit required by this chapter, or which was done without inspection by some one duly authorized by the sewer commissioner, shall be treated as defective work, and may be uncovered, and if need be, reconstructed by said commissioner at the expense of the drainlayer or plumber who did the work, or of the owner of the property drained; and any unpaid assessment against the property for district or joint district sewers shall be considered as part of the damage done, and shall be collected by suit in the name of the city on the bond of such drainlayer or plumber, and of the owner of the property, or either of them. (Ord. 20668, amend. M. C., sec. 2180.)

Sec. 2308. **Rights of city respecting private sewers.**—The city shall have the right at all times through the sewer commissioner or other proper officer, to connect with and use any private sewer built upon any public street, alley or highway, for draining streets or for any public purpose, and also to reconstruct or to close up or to disconnect from any public, district or joint district sewer any private sewer constructed in violation of the provisions of this chapter or which may, from any cause, have become a nuisance. (Ord. 20668, amend. M. C., sec. 2181.)

As to charter powers over private sewers, see Art. VI, sec. 23.

Sec. 2309. **When owners considered petitioners, etc.**—The owners or representatives of any property drained by a private sewer into a public, district or joint district sewer, when such property is not situated within the limits of a sewer district, shall be considered as petitioners for establishing a sewer district or joint sewer district whenever any other property holders within said proposed districts shall petition the board of public improvements for the same. (*Ib.*, amending M. C., sec. 2182.)

Sec. 2310. **How connection with private sewer may be obtained—consent of builder—definition of builder of sewer.**—Whenever any person shall desire to connect with and use a sewer which has been built by private parties and is located in any public street, alley or highway, he shall first obtain the written consent of the party owning or controlling the land for the drainage of which the sewer was built, or his duly authorized agent, said party being designated hereafter in this chapter as the builder of the sewer. He shall then make application to the sewer commissioner for a permit in the same manner as is provided for permits to connect with public, district or joint district sewers, at the same time presenting the written consent of the builder of the sewer, which paper shall be left on file in the office of said commissioner. (*Ib.*, amending M. C., sec. 2183.)

Sec. 2311. **Same—how permit to connect obtained without builder's consent from B. P. I.**—If the applicant shall fail to obtain the consent of the builder of the sewer, as aforesaid, he may apply to the board of public improvements to fix the terms upon which a permit to use said sewer will be issued without the consent of said builder, such application to be in writing. Upon receiving such application the said board shall fix a day when they will consider the matter, and give notice thereof to the builder of the sewer, or his agent, and to the applicant, either by personal service or by publication in the newspapers doing the city printing, at least one week before the day fixed. At the time appointed the board shall hear the parties interested, if any shall appear, and after due consideration of all the facts, shall fix the terms upon which the applicant shall have the right to connect with and use the sewer in question; provided, that the board find the sewer large enough to carry the additional drainage. The award shall be final and binding upon all parties. If said award shall involve the payment of money by the applicant, he may pay the same to the city treasurer, by whom, upon the certificate of the board of public improvements, it shall in turn be paid to the party or parties to whom it has been awarded by the decision of the board. (M. C., sec. 2184.)

Sec. 2312. **Material and mode of construction.**—No materials shall be used in constructing sewers or drains to be connected with public, district, joint district or private sewers, or with natural water courses, or lying wholly or in part on a public street, alley or highway, except such as

are approved by the sewer commissioner or his duly authorized agents. In connecting a private sewer or drain with a public, district, joint district or another private sewer, the junction pieces which have been built into the sewer must be used for such connection, unless a special permit to insert a new junction be first granted by the sewer commissioner. But if no junction pieces have been set in building the sewer, a connection shall be made by inserting into the sewer a junction piece of the size specified in the permit, which junction piece shall lie at an angle with the sewer not exceeding forty-five degrees and be cut slant in the process of manufacture, and not by clipping afterwards. In connecting pipe with pipe, a Y junction must be used. The inside of every sewer or drain must, after it is laid, be left perfectly smooth and clean throughout its whole length, and the ends of all sewers and drains not to be immediately used must be securely closed against the entrance of dirt or earth, by a stop of water-tight and imperishable material. (Ord. 20668, amending M. C., sec. 2185.)

Sec. 2313. Drains—how constructed—vaults—traps—water closets—sinks—buildings where large numbers accommodated.—It shall be unlawful hereafter to construct or extend any drain for the reception of sewerage or waste water, or to connect the same with any public, district or joint district sewer unless the said drain and its connection shall in its plan and construction conform to the following requirements:

First—All privy vaults which shall hereafter be connected with the sewer system of the city shall be so constructed that the bottom and sides will be impervious to water, and to this end shall be built of hard brick, with full joints, laid in hydraulic cement mortar, composed of two parts sand to one part cement, and shall be plastered or pargetted on the inside with similar mortar. The walls shall not be less than nine inches in thickness. The bottom of the vault shall be so formed as to throw all matter cast into said vault to the sewer opening. All vaults shall be so located that the inside of the same shall not be less than two feet from the line of any street, alley or adjoining lot. Connections from the vault to the sewer shall be made with vitrified clay or iron pipe six inches in diameter and a trap must be set in the pipe between the vault and the main sewer, which trap shall have a vertical shaft extending to the surface of the ground, where it shall be protected by a grating. Privy vaults shall not be more than eight feet deep, measured from the under side of flooring of privy to deepest part of the vault, unless permission for a greater depth is specially given by the sewer commissioner. Any semblance to a cesspool or receptacle in which filth is to accumulate is prohibited.

Second—If the drain extends to the house or other building, there shall be in said drain a trap so constructed as to bar the passage of air from beyond the trap into the house by any obstacle equal to at least one inch in depth of water. Between said trap and the foot of the soil pipe there shall be connected with the said drain, an inlet pipe for the admission of fresh air, and the soil pipe within the house shall be continued above the roof and left open so that the whole drain may be thoroughly and constantly ventilated.

Third—Water closets inside of buildings shall be of patterns approved by the board of public improvements, furnished with an efficient trap properly guarded against syphonage, which trap shall not receive the discharge of or be connected with any other fixture than the one water closet. The soil pipe shall be of cast iron, carried to and through the roof of the building undiminished in diameter and of the same material. Above the roof galvanized

sheet iron pipe may be used. The extension of the soil pipe shall be carried high enough to prevent the entrance of air from it into the windows of the building to which it is attached or of adjoining buildings and shall be guarded against down drafts when the surroundings are such as to create eddies. Safe drips shall not be connected with the soil pipe. Pan closets shall not be used.

Fourth—All sinks, basins and stationary tubs in every hotel, lodging, tenement, boarding-house or other dwelling shall be provided with proper stench traps directly under each sink, basin or stationary tub, so connected with waste or soil pipe and so constructed as the sewer commissioner may direct. All such traps shall be guarded against syphonage by a vent pipe of suitable size, which vent pipe shall run to the open air, or may be connected with the soil pipe above the connection of the highest fixture in the house.

Fifth—School houses, factories, and other premises where more than fifty persons use conveniences in common shall, if not provided with water closets, be furnished with school sinks or latrines of plans approved by the board of public improvements. (Ord. 20668, amending M. C., sec. 2186.)

Other vault regulations, see R. C., secs. 575, 576, 577.

Sec. 2314. Regulations as to sewer connections, etc.—closets, etc.—Every building shall have a separate and independent sewer connection, not less than six inches in diameter, with a public, district, joint district or private sewer, when such sewer is accessible; if such sewer is inaccessible, then the drain from the building or buildings shall be provided with a cesspool made of impervious material, of a capacity and built in a manner approved by the supervisor of plumbing.

Drain and soil pipes, through which water and sewage is used or carried, shall be of iron when within a building and for a distance of five feet outside of the foundation walls thereof, and where any sewer pipe passes within twenty-five feet of any well or cistern, whether such well or cistern be on the lot drained or on an adjoining lot, such pipe shall be of iron. Iron soil or drain pipe shall be sound, free from holes and other defects, and of uniform thickness. If of cast iron they shall not be less than one-eighth of an inch thick for a diameter of four inches or less, of five thirty-seconds of an inch for a diameter more than four and less than six inches, with a proportionate rate of increase for greater diameters. Inside of buildings they shall not be covered, but shall be placed as required by the rules and regulations. They shall have a suitable trap, with an accessible clean-out, placed either inside or outside the foundation walls of the buildings. They shall have an air-vent pipe of suitable size and position. All drain or soil pipe shall be made of curved pipe at changes of direction, and shall have a continuous fall toward the drain or sewer of not less than one-fourth of an inch to the foot, unless special permission is given for a less grade.

Subsoil drains shall be provided whenever dampness on any proposed site for a dwelling is known to exist; such drains shall not be directly connected with sewers, but shall discharge into a manhole and have a back-water valve. Joints between vitrified clay, or terra cotta, pipes carrying sewage shall be tight, made with neat cement freshly mixed, and of good quality, and all such pipes must be laid true to grade and line.

They shall be thoroughly tested before acceptance, and facilities for inspection must be furnished as required by the board of public improvements. Joints in iron pipe shall be run with soft lead and thoroughly caulked and

made tight. They shall be tested with water, air or smoke before any pipe or pipes are in any manner covered or concealed. Rainwater leaders, when connected with soil or drain pipes shall be suitably trapped. Chimney flues shall not be used as ventilators. Connections between iron and lead pipe shall be made with brass ferrules, properly soldered and caulked to the iron. Drip or overflow pipes from safes under water closets and other fixtures, or from tanks or cisterns, shall be run to some place in open sight, and in no case shall any such pipe be connected directly with a drain, waste or soil pipe. Waste pipes from refrigerators or other receptacles in which provisions are stored shall not be connected with drain, soil or other waste pipe unless such waste pipes are furnished with traps suitably ventilated, and in every case there shall be an open tray between the trap and refrigerator.

Every water closet, or line of water closets on the same floor, shall be supplied from a tank or cistern when found necessary and so ordered by the supervisor of plumbing, and the flushing pipe from such tank shall not be less than one-fourth inch in diameter; such tanks or cisterns shall not be used for any other purpose. Water closets shall not be so inclosed as to render access for inspection or cleaning inconvenient. A grease trap shall be constructed under the sink of every hotel, eating house, restaurant or other public cooking establishment. (Ord. 20668, amending M. C., sec. 2187.)

See also as to sewer connections, secs. 145, 898, 1798.

Sec. 2315. Commissioner's right of entry—order alterations—owner to conform.—The sewer commissioner or his duly authorized agent shall have the right to enter upon the premises drained by any drain, constructed hereafter and connected with any public, district or joint district sewer, at all reasonable hours, to ascertain whether the provisions of this chapter, or any ordinance in regard to drains, have been complied with, and if he shall find that said drains or its attachments do not conform to the provisions of the law in regard thereto, he shall notify the owner of said premises or his agent of this fact. It shall thereupon be the duty of said owner or his agent to cause said drain or its attachments to be so altered, repaired or reconstructed as to make them conform to the requirements of law in regard thereto, within fifteen days from the time of receiving such notice. (Ord. 20668, amending M. C., sec. 2188.)

Sec. 2316. Mode of connecting with steam or exhaust pipes, etc.—No connection shall be made through which the exhaust steam from any steam engine or heating plant can be discharged into the sewers, except through a condensing tank of construction and dimensions approved by the board of public improvements in each case; and connections from steam boilers, tanks or other vessels, which contain hot water or other liquids, gases or vapors, shall be made through receiving tanks of construction and dimensions approved by said board. (M. C., sec. 2189.)

Sec. 2317. When specifications of plumbing may be varied.—The specifications of plumbing contained in the preceding sections shall be varied from only when, in the opinion of the board of public improvements, better work can be obtained thereby. (M. C., sec. 2190.)

Sec. 2318. Obstructing sewers forbidden.—No person shall deposit or throw into any sewer or sewer inlet, or into any private drain connecting with a public, district or joint district sewer, any straw, hay, shavings, tinnners' scraps, waste, produce or material of manufacture, manure, rags or garbage, or any substance which may cause the sewer or sewer inlet to choke up, or which may cause a nuisance; nor shall any dam or

other obstruction be placed in any sewer unless permission so to do is expressly granted by the sewer commissioner. (Ord. 20668, amending M. C., sec. 2191.)

See also Rev. Code, sec. 611, as to obstructing sewers.

Sec. 2319. Establishments discharging matter likely to obstruct sewers—how connected—when prohibited.—No packing house, slaughter house, lard rendering establishment, dairy, steam engine, steam boiler or any establishment by which, in the opinion of the board of public improvements, anything would be discharged into the sewers tending to obstruct or injure the same or to cause a nuisance, shall be connected with any public, district or joint district sewer, except through one or more intervening catch basins as may be prescribed by said board, and in case the matter discharged by any establishment cannot, in the opinion of said board, be rendered harmless to the sewer or to the public health, they shall be excluded from the sewer entirely. (*Ib.*, amending M. C., sec. 2192.)

Sec. 2320. Violations of preceding sections—procedure—misdemeanor.—In case any establishment shall discharge into any public, district, joint district or private sewer in violation of the provisions of the preceding sections, the sewer commissioner shall, whenever ordered by the board of public improvements, notify the owner or occupant of such establishment to cease from such violation, and if catch basins are needed, to build such catch basins according to plans approved by said board within thirty days from the date of said notice. If, at the expiration of said notice, the order so given shall not have been complied with, the person, firm or corporation controlling the establishment shall be deemed guilty of a misdemeanor and be prosecuted therefor. (*Ib.*, amending M. C., sec. 2193.)

Sec. 2321. When obstructions removed at cost of owner.—If the drainage discharged from any dairy, slaughter-house or chemical works or manufacturing establishment shall produce or form a deposit obstructing a sewer, or if ashes, manure, or any other substance thrown into any sewer or sewer inlet shall choke or obstruct the same, the sewer commissioner shall immediately remove the obstruction, keeping an account of the cost of such removal, and shall certify an account of such cost to the person or persons from whose establishment or premises the material causing or forming the obstruction came, and if such person or persons shall fail, neglect or refuse to pay said sum into the city treasury within five days after demand has been made, he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum double the amount so due and owing, and the payment of the fine and costs shall operate as a discharge in full of said demand. (M. C., sec. 2194.)

Sec. 2322. Penalty.—Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten nor more than two hundred dollars. If a fine is imposed upon a bonded drainlayer or plumber, as herein provided, no permit for work under the control of the board of public improvements shall be issued to such drainlayer or plumber until said fine shall have been paid. (M. C., sec. 2195.)

CHAPTER 35.

OF STEAM BOILERS AND ELEVATORS.*

Sec. 2323. Inspector of boilers and elevators—appointment and qualifications.—The mayor shall appoint, by and with the consent of the council, an inspector of boilers and elevators, who shall be a practical mechanical engineer, and competent to test and inspect steam boilers and elevators and all steam-generating apparatus under pressure. (M. C., sec. 2196.)

Sec. 2324. Seven deputy inspectors to be appointed—qualifications.—Said inspector of boilers and elevators is authorized to employ, by and with the consent of the mayor, seven deputy inspectors, who shall possess the same qualifications as the inspector of boilers and elevators, and perform the same duties. (Ord. 21497, amending M. C., sec. 2197.)

Sec. 2325. Clerk and assistant clerk to be appointed—bond.—He shall also appoint a clerk and an assistant clerk, and who shall receive the same salary as the clerk, and who shall give bond to the same amount as now required of the clerk. (Ord. 21497, amending M. C., sec. 2198.)

Sec. 2326. Tenure of office.—The inspector of boilers and elevators, his deputies and clerk, shall hold their offices for a term of four years, and until their successors are appointed and qualified. (M. C., sec. 2199.)

Sec. 2327. Assistant boiler inspectors.—The inspector of boilers and elevators, in addition to seven deputies above mentioned, shall employ, with the advice and consent of the mayor, upon the written application of the president of any steam boiler inspection and insurance company, duly authorized by the insurance laws of the State of Missouri to transact business as an insurance and inspection company in the State of Missouri, one or more assistant boiler inspectors (for every such company making application therefor), who shall inspect and test the boilers insured by the company employing him, and no others. The said assistant boiler inspector shall serve without compensation from the city, and hold his office until removed by the mayor, at the request of the company he may represent, when said request is indorsed by the inspector of boilers and elevators, or he may be removed for cause by the inspector of boilers and elevators, to be first approved by the mayor. (M. C., sec. 2200.)

Sec. 2328. Board of engineers constituted.—The mayor shall also appoint, by and with the consent of the council, two persons, one of whom shall be a practical and mechanical engineer, and one shall be a manufacturer of engines and steam machinery; both shall have at least five years' experience in the business, who, in connection with the inspector of boilers and elevators, shall constitute a board of engineers. (M. C., sec. 2201.)

*Charter, Art. III, sec. 26, clause 7. The ordinance provisions of this chapter are valid: *St. Louis vs. Lamp Co.*, 139 Mo. 560. Amongst other things the court observes: "We take judicial notice of the dangers incident to the operation of steam engines and boilers when in inexperienced and unlicensed hands, and have no doubt as to the power of the city to take such measures as have been taken to provide by ordinance for the public safety. Such ordinances as the aforesaid merely prescribe *regulations* for the orderly conduct of a very necessary and if neglected, a very dangerous business in the large centers of population."

Sec. 2329. Duties of inspector of boilers and elevators.—The inspector of boilers and elevators shall devote the whole of his time and attention to the duties of his office, and also perform the duties of secretary of the board of engineers. He shall carefully inspect and test every stationary boiler and steam-generating apparatus under pressure used for stationary power, as provided by this chapter, including all attachments and connections, located within the city, at least once annually. He shall keep in the office of the board of engineers a complete and accurate record of the names of all owners or users of steam boilers, giving a full description of the boilers inspected by him, and the amount of pressure allowed and the date when last tested. He shall notify all owners or users of boilers of the time when a reinspection and test will be made, at least ten days before the expiration of each certificate of inspection, and appoint a day on which he will make a reinspection. (M. C., sec. 2202.)

Sec. 2330. Manner of inspection—certificate.—The manner of inspection shall be substantially as follows: The owners of steam boilers and users shall have the option of taking the hammer test or the hydrostatic test; also of electing whether the inspector of boilers and elevators or one of the assistant inspectors, mentioned in this chapter and employed and paid by the inspection and insurance companies, shall make such test. If the hammer test be asked for, the examination shall be thorough and searching upon every part of the boiler, both internally and externally, including all fittings and attachments. If the hydrostatic test be asked for, each boiler shall be tested by the hydraulic pressure one-fourth greater than the ordinary working steam pressure used, and the certificate of inspection herein provided shall state the maximum pressure at which any boiler may be worked. In case a defect shall be discovered in any boiler or attachment thereto, the inspector of boilers and elevators shall report the same to the owner or user of said boiler or boilers, and state the facts of the case in writing, giving a description of the particular locality in which each defect may be found, and whether of a dangerous character and necessitating immediate repair. If the inspector of boilers and elevators shall at any time find a boiler which, in his judgment, is unsafe, after inspecting same, he shall condemn its further use. All boilers to be tested by the hydrostatic pressure shall be filled with water by the owners or users, and they shall furnish the necessary labor required to work and handle the pumps in applying the test. When leaks occur which prevent a successful test, the inspector of boilers and elevators shall make a second test, upon receiving notice that all leaks have been repaired. If, upon making a second test, the boiler or boilers are still defective, he shall, for each subsequent test, collect an additional inspection fee, but in no case shall he give a certificate until fully satisfied of the safety of the boiler or boilers. All certificates of inspection shall be for one year and no longer. Any owner or user of any boiler or boilers insured by any steam boiler inspection and insurance company duly authorized to transact business in the State of Missouri, shall, upon his request, have the hydrostatic test applied once annually, without extra charge, by the assistant boiler inspector of such company, as provided in this chapter. (M. C., sec. 2203.)

Sec. 2331. Location and furnishing of office.—The inspector of boilers and elevators and board of engineers shall be provided with an office in the city hall, suitably furnished, including all needed blanks, stationery, and the mechanical appliances needful for their official duties. (M. C., sec. 2204.)

Sec. 2332. Sessions of board—shall have power to grant licenses to engineers, which may be revoked.—Said board shall provide for regular sessions, and the inspector of boilers and elevators shall act as secretary, and keep minutes of the proceedings. Said board shall convene for business once in each week to examine into the qualifications of applicants for engineers' licenses. A majority of the members of said board shall constitute a quorum for the transaction of business. The secretary shall keep a register of the names of all applicants, designating those found qualified and those not qualified. Said board shall grant certificates of license, for one year from date thereof, to all applicants who, upon examination, shall have the capacity, skill, experience and habits of sobriety requisite to perform the duties of an engineer, and no person possessing such qualifications shall be refused a license. Each applicant for a license shall, at the time of filing his application, pay to the inspector of boilers and elevators a fee of two dollars for each examination, and all money so received by the inspector of boilers and elevators shall be paid into the city treasury, as provided by section twenty-three hundred and thirty-six, but no charge shall be made for renewals. All certificates of licenses granted shall be signed by not less than two, and may be signed by all the members of the board. The board of engineers may adopt such rules and regulations as they shall deem proper, not inconsistent with this chapter and the general law. A full board of engineers, by an unanimous vote, shall have the power to revoke an engineer's license for inebriety, dishonesty or neglect of his duties, when in charge of an engine or boiler in use, and may order the re-inspection of any boiler whenever they shall deem it necessary for the public safety; but no license shall be permanently revoked for cause without first giving the accused party an opportunity to be heard in his own defense. (M. C., sec. 2205.)

Section sustained against various contentions of invalidity: *St. Louis vs. Lamp Mfg. Co.*, 139 Mo. 560.

Sec. 2333. Appeals to board of engineers.—Any owner or user of a steam boiler or elevator, feeling aggrieved on account of any decision of the Inspector of Boilers and Elevators, may appeal to the board of engineers, and upon a thorough and careful investigation of the matter at issue between the parties, a majority of the board shall decide the question, which decision shall be final in all cases; but the Inspector of Boilers and Elevators shall not have a vote in any matter in which there is an appeal from his decision. (M. C., sec. 2206.)

Sec. 2334. When unlicensed persons may be employed—violation misdemeanor—certificate displayed.—The owners or users of steam boilers or engines of a capacity of not over seventy-five square feet of heating surface, and pressure of not over twenty-five pounds of steam to the square inch used for power only, and all boilers under a pressure of fifteen pounds to the square inch used for heating purposes only, shall apply for a permit to employ a competent, careful and trustworthy person, instead of a licensed engineer, such person to be recommended by two citizens, one of whom shall be a steam user or a licensed engineer, and if found competent by the Inspector of Boilers and Elevators, said permit shall be granted. The Inspector of Boilers and Elevators shall have the power to revoke such permit for cause. In case the owner or user of any boiler shall for cause be deprived of the services of a licensed engineer, he may put a trustworthy person in charge for a time not exceeding twenty-four hours, unless a special permit is obtained from the Inspector of Boilers and Elevators, extending the time, which in no case shall exceed three days. At all

times when boilers are in use and engines run, there shall be in charge an engineer having a certificate of license from the board of engineers, which certificate of license shall be displayed in some prominent place where the boilers or engines are in use, and any owner or user as aforesaid, who shall neglect or refuse to employ a licensed engineer as herein provided, or any unlicensed person found in charge of boilers or engines requiring a licensed engineer as above provided, shall be deemed guilty of a misdemeanor, and on conviction shall pay a fine of not less than twenty-five nor more than one hundred dollars. Any engineer having a certificate of license from the board of engineers, who shall neglect or refuse to comply with the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten nor more than twenty-five dollars. (Ord. 21482, amending M. C., sec. 2207.)

See 139 Mo. l. c. 569.

Sec. 2335. Inspection of boilers—violation misdemeanor—regulations—penalties.—All owners or users of any stationary boiler or boilers, or steam-generating apparatus under pressure shall have the same inspected and tested as herein provided, before and while being used, and at least once a year thereafter; and for every neglect or refusal to have such inspection and test they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than twenty-five nor more than two hundred dollars. On the written application of any owner or user of a steam boiler or boilers, or steam-generating apparatus, duly countersigned by the assistant boiler inspector of any steam boiler inspection and insurance company, which is authorized to transact business as herein provided, it shall be the duty of the inspector of boilers and elevators, upon the receipt of such application, to direct the assistant boiler inspector who countersigned the application to inspect the boiler or boilers of any such owner or user making such application, by the hammer test; and the assistant boiler inspector, who shall make the inspection and no other, shall, after performing the duty, report in writing upon the same to the inspector of boilers and elevators, who shall thereupon give the said owner or user a written copy of the report of such assistant boiler inspector and a certificate of inspection upon payment of the fees required by this chapter; and the said inspection and certificate shall be valid and accepted as in full compliance with the provisions of this chapter. In addition to the above, each steam boiler inspection and insurance company doing business under the provisions of this chapter, shall make semi-annual report to the Inspector of Boilers and Elevators of all boilers inspected by the respective companies on the first day of January and July of each year, on blanks to be furnished by the Inspector of Boilers and Elevators, and such blanks shall contain the same requirements as those used by the deputy inspectors. If owners or users of steam boilers, or engineers in charge of the same, shall carry a greater pressure than is allowed in the certificate of inspection granted by the Inspector of Boilers and Elevators, they, or either of them, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in a sum not less than fifty dollars nor more than three hundred dollars, and in case of an engineer, his license shall be revoked; or if such owners or users shall use any boiler which has been condemned as unsafe by the Inspector of Boilers and Elevators, they shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars. (M. C., sec. 2208.)

Sec. 2336. Inspection—blanks, fees and returns.—The register shall issue to the comptroller certificates of inspection for steam boilers regularly numbered and duly signed by each of said officers in denominations proper to meet the requirements of this chapter, but blank as to the owners' or users' names, date, pressure, locality and number of the boilers. The comptroller shall issue such certificates of inspection to the Inspector of Boilers and Elevators, and charge them to him; the Inspector of Boilers and Elevators shall collect from all owners or users the following inspection fees, and no more: For every boiler five dollars, whether set singly or in sets; where sets of boilers are built one above another only those immediately over the firebed shall be counted. The Inspector of Boilers and Elevators, upon the receipt of the money for inspection fees, shall promptly deliver to every owner or user of any boiler, certificates of inspection of the boilers inspected by him or by his assistant; every such certificate of inspection shall be properly filled up as herein provided, and signed by said boiler inspector; said certificate of inspection shall be displayed in some prominent place near where the boilers are used. The Inspector of Boilers and Elevators shall make weekly returns to the city comptroller of all moneys collected, giving the names of the steam users and candidates for examination from whom collected, and shall pay the money collected into the city treasury at least twice in each week. (M. C., sec. 2209.)

Sec. 2337. Semi-annual report to comptroller.—The inspector of boilers and elevators shall make a semi-annual report to the comptroller, reporting the full number of boilers in the city, the number in use, the number inspected and the number condemned as unsafe. He shall report the date, name of the owner and the locality of every boiler accident, whether it be from a rupture or collapse of flue or explosion of the shell of a boiler, stating his belief as to the cause thereof. He shall further report the number and the names of applicants for engineers' licenses, the number rejected and the number granted certificates and amount received as fees for examinations. Such reports shall be signed by the full board of engineers and open to the inspection of all persons interested. (M. C., sec. 2210.)

Sec. 2338. Salary and bond of inspector.—The inspector of boilers and elevators shall receive a salary of eighteen hundred dollars per annum, which shall be in full for all services rendered by him. He shall give bond to the City of St. Louis in the penal sum of ten thousand dollars, with two or more sureties, to be approved by the mayor and council, conditioned for the faithful, skillful and impartial performance of the duties of his office, and that he will fully account for and pay into the city treasury all moneys received by him as herein provided. (M. C., sec. 2211.)

Sec. 2339. Bonds of deputy inspectors.—The deputy inspectors appointed under this chapter shall give a bond in the penal sum of five thousand dollars, with the same conditions as required of the inspector of boilers and elevators, and subject to the approval of the mayor and council. (M. C., sec. 2212.)

Sec. 2340. Bonds of assistant inspectors.—The assistant inspectors appointed under this chapter shall each give bond to the city in the penal sum of five thousand dollars, to be approved by the mayor and council, conditioned as the bond required of the inspector of boilers and elevators, and further to save the city harmless by reason of any neglect

or refusal to faithfully perform the several duties required by this chapter. (M. C., sec. 2213.)

Sec. 2341. Deputy inspectors to devote entire time—salaries.—The deputy inspectors shall devote their entire time to the duties of their office, and be paid for their services the sum of twelve hundred dollars each per annum. (M. C., sec. 2214.)

Sec. 2342. Bond and salary of clerk—inspector responsible for clerk.—The inspector of boilers and elevators shall be responsible for the acts of said clerk, and shall require him to give bond. Said clerk shall receive a salary of twelve hundred dollars per annum, payable monthly. (M. C., sec. 2215.)

Sec. 2343. Bond and compensation of members of board.—The members of the board of engineers, except the inspector of boilers and elevators, shall each receive four dollars for each session at which they are present; provided, said board shall not hold to exceed one session per week. They shall each give bond in like manner as the inspector of boilers and elevators, with the same conditions, and in the penal sum of five hundred dollars, said bond to be approved by the mayor and council. (M. C., sec. 2216.)

Sec. 2344. Salaries paid out of what fund.—The salaries of the officers herein created shall be paid out of the appropriation for board of engineers and inspector of boilers and elevators. (M. C., sec. 2217.)

Sec. 2345. Qualifications of members of board and deputy inspectors.—The board of engineers and deputy inspectors appointed under this chapter shall each possess the qualifications prescribed in section ten, article four of the Charter. (M. C., sec. 2218.)

Sec. 2346. Misconduct of inspector, etc., when misdemeanor.—If the inspector of boilers and elevators, his deputy or assistants, shall neglect or fail to discharge his or their duties by reason of inebriety or by neglecting to perform the duties of inspector, or to pay over moneys received for inspection and examination as provided in this chapter, or in any manner use their position for corrupt or dishonest purposes, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined in a sum of not exceeding one hundred dollars, and forfeit his or their office. (M. C., sec. 2219.)

Sec. 2347. What exempt from chapter.—The engineers, engines and boilers of the fire department, and the locomotive boilers used on railroads, and steam boilers supplied with water automatically and having no pump or injector, and used only for heating dwelling-houses, not carrying under pressure over eight pounds of steam per square inch, are exempt from the provisions of this chapter. (M. C., sec. 2220.)

Sec. 2348. Application and examination of license.—Every applicant for license who fails to pass the examination of the board, is required to wait four weeks before again making application for license, and the board shall give him another examination. Every applicant for license must make application for a license on a blank furnished by the inspector of boilers and elevators for that purpose. Applicants must have at least

two years' experience at mechanical or steam engineering, and must write and state his experience on said blank. He shall go before the inspector of boilers and elevators and make oath that the statements set forth in such blank are true facts. (M. C., sec. 2221.)

Sec. 2349. Licensed engineers must give notice of changes of employment.—Every engineer licensed by the board is required to notify the inspector of boilers and elevators when he accepts or leaves his employment, and within twenty-four hours thereafter the name of his employer and the location of the boilers in his charge. Any engineer who fails to give such notice may have his license revoked by the board. (M. C., sec. 2222.)

Sec. 2350. Application for renewal of revoked license.—Application for renewal of such license shall be made not later than the third meeting of the board next following the expiration of the license, and unless the above provision is complied with, the board may, at its discretion, order a new examination. (M. C., sec. 2223.)

Sec. 2351. Boiler inspector's certificate to be posted—penalty.—Any steam user failing to place or put in a conspicuous place in the engine-room or boiler-house, the boiler inspector's certificate, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars. Upon any owner or user of a boiler refusing to pay for said certificate, or to obtain a certificate of inspection as provided for in section 2336, it shall then become the duty of the inspector of boilers and elevators to at once draw the fire under the said boiler, and not permit its further use until the said certificate is duly paid for, as required in said section. (Ord. 21480, amending M. C., sec. 2224.)

Sec. 2352. Licensed engineer to make semi-annual report—failure—penalty.—Any engineer licensed by the board shall, within the first ten days of January and July, each make a written report to the inspector of boilers and elevators of the condition of all boilers and apparatus in his charge, and if he neglects or fails to comply with this section or if intoxicated while in the discharge of his duty, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall, besides the fines otherwise provided for, forfeit his license. (M. C., sec. 2225.)

Sec. 2353. Expenditures—how paid.—All the expenditures for horses, horse feed, harness, wagons, pumps, hose and other proper expenses and necessary apparatus for the inspection of boilers, shall be charged and paid as expenses for the office of the board of engineers and inspector of boilers and elevators, and all bills before being paid, shall be audited and approved by the comptroller. (M. C., sec. 2226.)

Sec. 2354. Duties of owners and users of boilers.—Before any owner, owners or users of steam boiler or boilers shall have said boiler or boilers placed in position, he or they shall notify the inspector of boilers and elevators, who shall examine the same, and satisfy himself that the construction, material, bracing and all other parts of the boiler or boilers are such as to assure the safety of the same. It shall also be the duty of any owner or user of any steam boiler that requires repairs to notify the inspector of boilers and elevators, who shall satisfy himself

that the repairs made will assure the safety of said boiler or boilers. Any violation of the provisions of this section shall be considered a misdemeanor, punishable by a fine of not less than ten nor more than twenty-five dollars. (M. C., sec. 2227.)

Sec. 2355. Boilers to have plugs—regulations.—All boilers shall have inserted in them plugs of brass, filled with banca tin, as follows: All cylinder boilers with flues shall have one plug inserted in one flue of each boiler; and also one plug in the shell of each boiler, as follows: All plugs in shells shall have an external diameter of not less than that of one-inch gas-pipe screw tap, and an internal opening not less than one-half inch in smallest opening, all plugs to be inserted in shell from inside, on second sheet from forward end, one inch above flues; all plugs to be inserted in flues not more than three feet from after end; all plugs to be inserted in flues to have an external diameter of that of a three-fourth gas-pipe screw tap, and an internal opening of one-half inch except flues or tubes of six inches or less, when plugs may be used with an external diameter of that of three-eighth gas-pipe screw tap, with an internal opening of one-fourth of an inch. The inspector of boilers and elevators shall have power to have one plug placed in each boiler not provided for in this section, as he may deem necessary for the safety of lives and property, and it shall be the duty of the inspector to see that such plugs are filled with banca tin at each inspection. (M. C., sec. 2228.)

Sec. 2356. Inspection of elevators—all elevators to be regularly inspected.—It shall be the duty of the inspector of boilers and elevators to regularly inspect all elevators used for the purpose of carrying either passengers or freight; to see that the same are in perfect working order, and that all the parts are in good condition and repair. And for this purpose he shall have the right to enter the premises where any such elevator may be in use. The result of such inspection shall be properly recorded in books kept for that purpose in the office of the inspector of boilers and elevators, from which place all notices, certificates, etc., shall be issued. (M. C., sec. 2229.)

Sec. 2357. Elevators—duties of owner.—It shall be the duty of every person operating or using any passenger or freight elevator in any building within the limits of the city to cause the same to be inspected and examined by the inspector of boilers and elevators at least once in three months (excepting elevators operated exclusively by hand, which shall be inspected at least once every six months), and every such person shall apply to and procure from the inspector of boilers and elevators, within five days after such inspection, a certificate to the effect that said elevator is in a safe and sound condition, and said certificate shall be kept in public view by having the same posted as near as possible to the entrance of the elevator car. (M. C., sec. 2230.)

Sec. 2358. No inspection of dumb-waiters, etc., required.—For dumb-waiters, or any other lifts or hoists operated by hand, not exceeding a capacity of three hundred pounds, no inspection is necessary. (M. C., sec. 2231.)

Sec. 2359. Fees to be paid into city treasury.—The inspector of boilers and elevators shall charge a fee of one dollar for each certificate so issued, and all moneys received by him shall be paid into the city treasury, as provided by this chapter. (M. C., sec. 2232.)

Sec. 2360. Elevators not to be operated without certificate.—It shall be unlawful to run or operate any elevator within the city without first having obtained a certificate from the inspector of boilers and elevators as prescribed in the preceding section, and any user of an elevator who fails or refuses to obtain said certificate shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten dollars nor more than one hundred dollars, and for each day such violation shall continue, after notice has been given by the inspector of boilers and elevators, or during which the person or persons so notified shall neglect or refuse to comply with the provisions of this chapter, there shall be an additional fine of fifty dollars. (M. C., sec. 2233.)

Sec. 2361. Defects—how remedied.—Should any defects be found to exist in any part or parts of any passenger elevator which would tend to impair the safety, or endanger life by continued use of such elevator, the inspector of boilers and elevators shall cause a written notice to be served upon the users of said elevator, which notice may contain a statement of repairs necessary to be made, and said elevator shall not again be used until a certificate in writing shall be issued by the inspector of boilers and elevators that it has been put in a safe running order, and is fit for use. (M. C., sec. 2234.)

Sec. 2362. Notice of changes to be given.—The inspector of boilers and elevators shall be notified of any changes to be made by owners or users of elevators. (M. C., sec. 2235.)

Sec. 2363. Builders of boilers or elevators to notify inspector and submit plans—to be approved—certificate.—Hereafter any manufacturer or builder of boilers, upon receiving a contract to construct a boiler to be installed within the limits of the City of St. Louis, shall notify the inspector of boilers and elevators of the fact, and submit to him plans and specifications of same. All plates or sheets used in the construction of any boiler which is to be installed in any building within the City of St. Louis shall be carefully inspected, as well as the workmanship of said boiler, by the inspector of boilers and elevators, and the same condemned if not in compliance with the required standard. Hereafter any manufacturer or builder of elevators, upon receiving a contract to erect or construct an elevator within the limits of the City of St. Louis, shall notify the inspector of boilers and elevators of the fact, and file a copy of the plans and specifications of said elevator therewith for his approval, showing the size and construction of the sheaves drum, ropes or cables, and all automatic devices thereon, together with the clearance at top and bottom of the shaft, and the automatic locking devices on the doors or gates to the shaft. Before said boiler or elevator is put in operation, a certificate shall be obtained as provided for in section 2361. (Ord. 21481, amending M. C., sec. 2236.)

Sec. 2364. Competent operatives to be employed.—The users of all power elevators shall employ a competent person to operate and run the same, who shall have a proper knowledge of all the parts of the machinery for the working of the elevator of which he may have charge, and who shall not be less than sixteen years of age, and of industrious and sober habits. Whenever it shall become evident to the inspector of boilers and elevators that any person employed in the above capacity is incompetent or untrustworthy, he shall notify the users of said elevator, who shall

at once replace the incompetent employe with a qualified operator. (M. C., sec. 2237.)

Sec. 2365. Penalty.—Any violations of the provisions of this chapter, for which a penalty is not provided, shall be deemed a misdemeanor, and the person, persons, copartnership or corporation guilty thereof shall, on conviction thereof, be fined in a sum not less than ten nor more than one hundred dollars, before the court or courts having competent jurisdiction. (M. C., sec. 2238.)

CHAPTER 36.

SUPPLY DEPARTMENT.*

Sec. 2366. Office of commissioner of supplies created.—There is hereby created and established the office of commissioner of supplies, which office shall be conducted by the officer known as the commissioner of supplies, to be appointed as provided in section two of article four of the Charter. (M. C., sec. 2239.)

Sec. 2367. Qualifications of commissioner.—In addition to the qualifications prescribed in section ten of article four of the Charter, the commissioner of supplies shall have been a resident of the city at least three years next preceding his appointment. (M. C., sec. 2240.)

Sec. 2368. Salary of commissioner.—The commissioner of supplies shall receive a salary of three thousand five hundred dollars per year, payable monthly. (M. C., sec. 2241.)

Sec. 2369. Bond of commissioner.—The commissioner of supplies shall give a bond of fifty thousand dollars, with not less than three good securities, who shall be holders of unincumbered real estate within the city, said bond to be approved by the mayor and council. The condition of said bond shall be, that said commissioner shall honestly and faithfully execute and perform the duties of his office as prescribed by law and ordinances; that he will not directly or indirectly be in any manner interested in the sale of any article to the city, that he will not, directly or indirectly, receive any bribe, gift or consideration of any kind from any person or persons who have been, are now, or likely to be engaged through the department in furnishing any supplies or selling any article to the city. (M. C., sec. 2242.)

Sec. 2370. Deputy—duties—salary.—The commissioner of supplies, by and with the consent and approval of the mayor, shall appoint a deputy, who shall, in the absence of the principal, perform his duties, and shall otherwise perform such duties as his principal shall prescribe. The salary of the deputy shall be at the rate of fifteen hundred dollars per annum, payable monthly. (M. C., sec. 2243.)

Sec. 2371. Stenographer—appointment—salary.—The commissioner of supplies, by and with the approval of the mayor, shall appoint

*For Charter provision, see Art. IV, sec. 29. Other provisions affecting the office, see Art. IV, secs. 2, 9, 47; Art. XI, sec. 2.

one stenographer, who shall receive a salary of seventy-five dollars per month, payable monthly out of municipal revenue. (Ord. 20731.)

Sec. 2372. Other employes—appointments—salaries.—The Commissioner of Supplies by and with the approval of the Mayor, shall also appoint four clerks, who shall each receive a salary of one hundred dollars per month; also, one bookkeeper, who shall receive a salary of one hundred dollars per month; and also one assistant bookkeeper, who shall receive a salary of one hundred dollars per month; all of the said salaries to be paid monthly. (Ord. 21459, amending M. C., sec. 2244.)

Sec. 2373. Purchase of supplies by commissioner—advertisements—deposit by bidders—bids—contracts—approval of contracts—return of deposits.—The Commissioner of Supplies shall purchase all articles needed by the city in its several departments in such manner and under such regulations as may be provided by ordinance, and, as far as practicable, by advertisement for proposals to furnish the same. Advertisements for such proposals shall state fully the quantity and quality of all articles needed, the time and place fixed for opening proposals, and the Commissioner may, by the advertisement, require every bidder to deposit with the Commissioner a check certified to by some bank or trust company in the City of St. Louis, payable to the order of the Treasurer of the City of St. Louis, for such amount of money as the Commissioner may deem sufficient to secure the proper execution of the contract, or contract and bond for furnishing supplies for which proposals are solicited, or to secure the furnishing of supplies not under formal contract and in a manner satisfactory to the Commissioner. The Commissioner shall furnish to each bidder a printed blank for his proposal whereon the bidder shall state the quantity, quality and price of the article to be furnished, and in specifying the quantity and quality thereof, he shall recite the requirements of the advertisement, and any bidder may make his proposal for any one article named in the advertisement. All proposals shall be sealed, and opened at the time and place fixed by the advertisement, in the presence of such bidders as desire to be present, and shall be open to the inspection of bidders. The award for each article shall in all cases be made to the lowest bidder therefor, except, however, that any bid having any alterations or erasures upon it shall be rejected, and further, that the Commissioner shall have the right to reject any and all bids. Whenever a formally executed contract for the furnishing of supplies shall be required by law, such contract shall be approved by the Mayor before it shall become binding upon the city; whenever the Commissioner shall purchase any supplies without advertisement for proposals therefor, such purchase shall be approved by the Comptroller before the same shall become binding upon the city. When the contract, or the contract and bond, for furnishing the supplies for which the proposals were solicited, shall have been fully executed according to law, or when the furnishing of supplies shall have been awarded, the Commissioner shall return to every unsuccessful bidder to whom the contract for furnishing shall have been awarded, the check by him deposited as hereinbefore provided. The Commissioner shall, upon awarding the contract for furnishing supplies, or the furnishing of supplies not under formal contract, deliver the certified check so deposited by the successful bidder to whom the contract or furnishing shall have been awarded, to the City Treasurer, who shall receive and credit the amount so deposited to the account of "Contracts and Other Deposits Fund," and shall issue quadruplicate receipts therefor, specifying the date, amount of money received and from whom, upon ac-

count of what proposal, and the authority of this article, one receipt to be delivered to the depositor, one to the Comptroller, one to the Auditor and one to the Commissioner of Supplies, each conditioned that if the bidder shall fully execute, according to law, the contract, or the contract and bond, requisite for the furnishing of the supplies awarded to him, or, when supplies are to be furnished not under formal contract, shall furnish such supplies and in a manner satisfactory to the Commissioner, then the Treasurer shall repay to the bearer the amount deposited upon the surrender of the Treasurer of the warrant hereinafter required to be issued to every successful bidder. When the contract, or contract or [and] bond, requisite for furnishing supplies shall have been fully executed according to law, or, when supplies to be furnished not under formal contract, shall have been furnished and to the satisfaction of the Commissioner, the Commissioner shall issue to every successful bidder aforesaid who shall have made the required deposit, an order directing the auditor to deliver to the party named in the Commissioner's receipt aforesaid a warrant directing the Treasurer to pay to said party the amount stated in said receipt. The Auditor, upon surrender to him of the aforesaid order of the Commissioner shall draw a warrant directing the City Treasurer to pay to the order of the party named in the Commissioner's order the amount therein stated. The City Treasurer shall, upon the surrender of the aforesaid warrant, pay to the bearer thereof the amount therein stated, if a bidder shall have been awarded a contract for furnishing supplies but shall fail to execute the contract, or the contract and bond, according to law, the Treasurer shall, upon notification from the Commissioner to that effect, retain the amount deposited by such bidder; or, if a bidder shall have been awarded the furnishing of supplies not under formal contract, but shall fail to fully furnish the same according to the terms of the proposal and bid and to the satisfaction of the Commissioner, the Treasurer shall, upon notification from the Commissioner to that effect, retain the amount deposited by such bidder; amounts so retained shall be covered into the general fund of the Treasury. (Ord. 22144, amending M. C., sec. 2245.)

See Charter, Art. IV, sec. 29. See also *Verdin vs. St. Louis*, 131 Mo. 26, 161 *et seq.*, per Sherwood, J., dissenting.

Sec. 2374. To contract for fuel, milk and ice—when.

—The commissioner of supplies shall in the month of June of each year advertise for proposals, and enter into contract on the part of the city for furnishing for the period of one year all fuel and milk, and shall also in the month of December, January or February of each year advertise for proposals, and enter into contract on the part of the city, for furnishing for the period of one year all ice that may be required for the use of the city hospital, insane asylum, poorhouse, female hospital, workhouse, jail, house of refuge, city hall, courthouse, fire engine houses and other city offices; the articles to be delivered as required, from time to time, at the different institutions and departments of the city, and he shall require a good and sufficient bond for the faithful performance of said contracts, which shall be approved by the mayor. (M. C., sec. 2246.)

Sec. 2375. To contract for food and requirements of institutions—contract requisites.—The commissioner of supplies shall in the month of June of each year, and every month thereafter, advertise for proposals, and enter into contract on the part of the city, for furnishing for the period of three months all meat, butter, lard, fish, eggs, poultry, bread, gasoline, flour, corn meal, hay, corn, oats, and ground feed required for the use of the health department, workhouse, house of refuge, jail, fire depart-

ment and all other departments; the articles to be delivered as required, from time to time, at the different institutions and departments of the city; he shall require a good and sufficient bond for the faithful performance of said contracts, subject to the approval of the mayor. (M. C., sec. 2247.)

Sec. 2376. Purchases of perishable articles.—All perishable articles, such as fruit and vegetables, that may be required for the use of the hospital, insane asylum, poorhouse and workhouse, and house of refuge, shall be purchased by the commissioner of supplies, at the best possible rates, on the requisition signed by the proper officer in charge of the above named city departments; all of which purchases shall be approved by the comptroller before they shall be binding on the city. (M. C., sec. 2248.)

Sec. 2377. Proposals, to be advertised for.—Whenever any institution or department of the city, through the officer in charge thereof, shall make a requisition on the commissioner of supplies for any articles for which there shall be no contract as provided for in sections 2374, 2375 and 2378, and when the amount to be purchased shall exceed the sum of one hundred dollars for any one article, and when the delivery of same is not to be continuous, the commissioner of supplies shall advertise for proposals for the furnishing of such articles, and the award on said proposals shall be approved by the comptroller, the same as is provided for in section 2382; provided, that when any article or articles shall be purchased by the commissioner as provided for above, and the delivery of the same is to be completed after thirty days, he shall enter into contract for same, as is provided for in section 2383. (M. C., sec. 2249.)

Sec. 2378. Groceries and drugs—proposals for.—In the months of January, April, July and October the commissioner of supplies shall give public notice in the newspapers doing the city printing, that on the fifth day from the date of the notice, he will receive proposals for furnishing the city hospital, female hospital, insane asylum, smallpox hospital, poorhouse, workhouse, house of refuge and jail, with such groceries and drugs, not otherwise contracted for, as may be needed for the use of said institutions during the next three months; and for the information of bidders, he shall have prepared printed lists of the articles, and quantity required for each institution. The requisition for groceries and drugs for each institution shall each be separate. (M. C., sec. 2250.)

Sec. 2379. To purchase fire engines and apparatus.—The commissioner of supplies shall purchase the engines and other apparatus for the suppression or extinguishment of fire and the protection of life and property that may be needed by the fire department, when the purchase of such articles is recommended by the chief of fire department and approved by the mayor; provided, however, that the municipal assembly shall have by ordinance provided for and appropriated the funds to meet said purchase. (M. C., sec. 2251.)

Sec 2380. To purchase horses, mules, wagons, etc.—The commissioner of supplies shall purchase all horses, mules, wagons, carts, ambulances and buggies that may be needed for the several institutions or departments of the city; provided, that before making said purchases, the requisitions for same shall be signed by the officer in charge of the department where such articles are needed, and approved by the mayor. (M. C., sec. 2252.)

Sec. 2381. To examine articles purchased, etc.—memorandum concerning same, etc.—It shall be the duty of the commissioner of supplies to personally examine the articles that have been purchased by him, and delivered to the several institutions or departments of the city, and see if the said articles are of the standard kind and quality as required by the terms of sale; where he shall find inferior articles have been delivered, he shall at once reject all such articles, and shall not certify the bill for the same for payment, and report all the facts to the mayor. It shall be the duty of the commissioner of supplies, whenever supplies of any sort are furnished to any institution or department of the city government, to send with such supplies a memorandum, stating the quantity, quality, weight or measure and price of each article sent, which memorandum shall be returned to the commissioner of supplies with the indorsement thereon of the superintendent or other person in charge of the department or institution as to its correctness, except in respect to the price thereof. The commissioner of supplies shall keep all such memorandums or receipts as vouchers for any payment he may make either for goods purchased in the open market or under advertisement. (M. C., sec. 2253.)

Sec. 2382. Purchases, whether under contract or not—duty to approve.—It shall be the duty of the commissioner of supplies to approve, if correct, all purchases for supplies furnished the city, whether purchased under any contract with the city or otherwise. If a purchase is made under any contract, the commissioner of supplies shall state on the bill of purchase the date of the contract and the date of the approval by the mayor. If the purchase is not made under any contract, it shall be approved by the comptroller, and a certified copy of the requisition for the articles mentioned in said bill shall be attached to the same. The auditor shall not audit and allow any bills for supplies unless the foregoing provisions are complied with. (M. C., sec. 2254.)

Sec. 2383. Bonds required for performance of contracts.—The commissioner of supplies shall require all parties contracting through his department to give good and sufficient bond for the faithful performance of said contracts, to be approved by the mayor, and all contracts shall contain a clause that the articles to be furnished are to be delivered to the various city institutions or departments free of charge for transportation, and that the city shall allow no charge for packages. (M. C., sec. 2255.)

Sec. 2384. Bids, to be declined, when.—When the commissioner of supplies finds any party engaged in selling or delivering any article to the city who has failed or refuses to comply with the terms of his contract or agreement, or when a party fails to make restitution to the city for any loss the city has met by failure or neglect on his part to comply with the terms of his agreement, then the commissioner of supplies, with the consent and approval of the mayor, shall decline to receive any further bids from said party for any articles to be furnished to the city. (M. C., sec. 2256.)

Sec. 2385. Surplus, or refuse property, to be sold, when.—The commissioner of supplies shall, when directed by the comptroller, advertise in the newspapers doing the city printing, for at least three days, for proposals for the purchase of all surplus, condemned, or other refuse property under his control. Such advertisement shall state specifically the character and quality of the article or articles to be disposed of, the time and place when and where the bids shall be opened, with the right re-

served to the comptroller to reject any or all bids; provided, that any rejection or award of bids be done by and with the consent and approval of the mayor. (M. C., sec. 2257.)

Sec. 2386. Disposition of moneys received from such sales.—The money received from the sale of all surplus, condemned or other refuse property, shall, within one week from the day of sale, be paid by the commissioner into the city treasury, taking the treasurer's receipt in triplicate therefor, and filing one of those receipts with the comptroller and one with the auditor. (M. C., sec. 2258.)

CHAPTER 37.

TREASURY DEPARTMENT.

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| ART. | I. Of the department. |
| | II. Of auditor. |
| | III. Of comptroller. |
| | IV. Of treasurer. |

ARTICLE I.

OF THE DEPARTMENT.

Sec. 2387. Composition of department.—The treasury department of the city government shall consist of the auditor, comptroller and treasurer. (M. C., sec. 2259.)

Sec. 2388. What accounts and bills to state.—All accounts, bills or claims which are presented for settlement and allowance against the city, must state by what authority, for what purpose, and at whose direction the liability is created, the price or rate charged, and the total amount written out in full, and the proper officer having knowledge of the fact of the case must certify thereto before its allowance; provided, that no officer shall present for allowance in his own behalf any claim based on the payment by him of a sub-voucher where it is practicable to have such voucher audited and allowed in the name of the original party. (M. C., sec. 2260.)

Sec. 2389. Accounts to be forwarded to auditor.—All accounts, claims and demands which are required to be certified to as provided in the next preceding section must be prepared by the respective officers and boards of the city government, and forwarded to the auditor on or before the second day of each month, covering all liabilities created in relation to business under their supervision during the preceding month. At the same time they shall prepare and deliver to the comptroller detailed statements of all such claims and demands, representing the names of claimants, the nature of the demands, and the respective and total amounts thereof. (M. C., sec. 2261.)

Sec. 2390. Bonds, etc., by whom and how paid.—All bonds, notes, coupons or other public indebtedness of the city shall be paid by the city treasurer, if presented at the treasury, or by the banks selected or designated as the fiscal agent of the city where said bonds, notes, coupons or other public indebtedness may have been made payable. All pay-

ment by the treasurer, on account of such public indebtedness, shall be accounted for by and allowed to him as prescribed in section 2391. To meet the payment of public indebtedness by the banks selected or designated as fiscal agents of the city, and where said bonds, notes, coupons or other public indebtedness may have been made payable, the treasurer shall, upon receipt of auditor's warrants issued according to requisitions of the comptroller, approved by the mayor, remit to such fiscal agents the amounts specified in such warrants. Until the fiscal agents acknowledge the receipt of such remittance, the treasurer's requisition account shall stand charged on the books of the city with the amount of such warrants. All remittances to, or deposited at the banks selected or designated as fiscal agents of the city, shall be to the credit of the city, subject to the order of the treasurer, countersigned by the mayor, and shall be used by said banks or fiscal agents, respectively, to meet payments of the public debts or liabilities maturing thereat. All such fiscal agents shall, upon receipt of remittances from the treasurer, acknowledge the same in writing; duplicates of such acknowledgment shall be sent one to the comptroller and one to the auditor, and the proper entries shall be made upon the books of the city accordingly. All such fiscal agents or depositories shall return to the treasurer the bonds, notes, coupons or other public indebtedness of the city, paid by it or them on the first day of each month, as far as practicable, with the full statement of the city's account; duplicates of said statement shall be forwarded, one to the comptroller and one to the auditor and proper entries thereof shall be made upon the books of the city. All such fiscal agents or depositories shall, at the same time that the bonds, notes, coupons are transmitted to the treasurer, notify the comptroller of the payment of any such bonds, notes, coupons or other public indebtedness, by it or them, giving the number and amount thereof, and in addition thereto the city treasurer and all such fiscal agents or depositories shall stamp or indorse on the face of such bonds, notes, coupons or other public indebtedness, at the time of payment thereof, the word "Paid," and also cancel the same. (M. C., sec. 2262.)

Transfer, payment, sale and cancellation of bonds, etc., see also sections 2393, 2396-2400, below.

For provisions concerning Sinking Fund for payment of bonds, see Charter, Art. XIV; power of city in general to borrow money, see Charter, Art. III, sec. 26, clause 1, and references in the note thereto appended.

Sec. 2391. Accounts of treasurer as to cancelled obligations to be examined—worthless claims by city.—Once in each month, on or before the tenth day thereof, or oftener, if the treasurer desires it, upon a written notice from the treasurer, the comptroller and chairman of the ways and means committees of the council and of the house of delegates, shall meet and examine, count and cancel all bonds, notes, coupons and other indebtedness of the city, paid by the treasurer or returned to him by the fiscal agents of the city and certify the amount thereof, including commissions and expenses, and deliver the same to the auditor for safe-keeping, taking the auditor's triplicate receipt therefor, one of which shall be delivered to the comptroller, one to the treasurer, and one to be retained by the auditor. The payments of all bonds, notes, coupons or other indebtedness by the treasurer as ascertained by the comptroller and chairman of the ways and means committee shall be audited and allowed as other claims are. The comptroller and chairman of the ways and means committees shall also ascertain the nature and amount of all claims that the city has against any person or persons standing upon the books of the auditor, which are more than fifteen years past due, which in their judgment are worthless, and shall direct the auditor to transfer said claims to a

suspense account, and the amount thereof shall not thereafter be included in the statement of the assets of the city until the whole or some part thereof shall have been collected by the city. (M. C., sec. 2263.)

Sec. 2392. Accounts of comptroller and fund commissioners.—Similar settlements shall be made by the committee of ways and means of both houses of the municipal assembly with the comptroller for whatever public debts may be paid by him, or on his account, and with the fund commissioners for such as may be purchased and retired by them, and in every case of such settlement similar certificates shall be given in behalf of the comptroller and fund commissioners, respectively, upon which they shall receive all proper credits on the books of the auditor and comptroller, and all coupons detached from bonds and returned to the fund commissioners shall be receipted for in duplicate, and charged against them on the books of the auditor and comptroller. (M. C., sec. 2264.)

Sec. 2393. Sales, bonds and loans reported to auditor.—All sales of bonds, notes or other negotiations for loans made by the mayor and comptroller shall be immediately reported to the auditor, upon which he shall make the proper entries on his books, and the proceeds of all such sales or negotiations shall be at once delivered to the treasurer. (M. C., sec. 2265.)

Sec. 2394. Reports required—what to contain.—Annual and semi-annual reports of the business under the charge of all fiscal officers and department boards of the city shall be made and delivered to the comptroller on the second Tuesday of April and October, respectively, of each year, in relation to all the business under their charge since their last annual report. That of the auditor shall present a balance sheet of all accounts at the date of his last annual report, the aggregate debits and credits, respectively, in detail, added to each account since, and a balance sheet of all such accounts at the date of the report, and shall contain such other information in relation to the business of his office as may be required. That of the treasurer shall represent the cash on hand at the date of his last annual report, the amount since received and the amount paid out in detail to the debit and credit, respectively, of the various accounts on his books, the balance remaining on hand, and of what it consists, and where it is deposited in detail. Similar monthly reports shall be made by all fiscal officers and department boards, and submitted to the comptroller on the second Tuesday of each month, and all reports shall contain a list of all deputies, clerks and assistants employed in their respective offices. Settlements properly certified by the comptroller shall also be made by all fiscal officers with the auditor, as required by law, at the same time that reports are made to the comptroller; and all amounts found due by the several officers shall be immediately paid into the city treasury, and the books of all officers shall be compared and balanced annually, semi-annually and monthly. (M. C., sec. 2266.)

Charter, Art. IV, secs. 47, 48.

Sec. 2395. Contracts to be on printed blanks, properly signed, filed, etc.—All contracts for works and other purposes, not in the nature of monthly expenses, must be in writing or on printed blanks prepared by the city counselor, signed by the officers designated therefor by law or ordinance, or if none be so designated, then by the comptroller,

and all contracts must be countersigned and registered by the comptroller in his office, and filed with the register for safe-keeping. (M. C., sec. 2267.)

As to the proper execution of city contracts, and the various provisions of the Constitution, statutes and Charter provisions concerning the same, and the necessity of compliance therewith, see note to sec. 7 of Art. XVI of the Charter.

Sec. 2396. Coupon bonds may be exchanged for registered bonds.—Upon application of the holders of any coupon bonds, heretofore issued or hereafter issued by the City of St. Louis, the right to exchange which is not expressed on the face of such bonds, and upon surrender thereof, at the office of the comptroller of the City of St. Louis, he, the said comptroller, is hereby authorized to issue to and in the name of such holders registered bonds of like tenor and amount in one or more certificates, and such coupon bonds and the coupons attached thereto shall be cancelled by the said comptroller immediately upon being surrendered to him by stamping or writing the words "Canceled," "exchanged for registered bond No. —, dated —," in red ink across the face of the bonds and by canceling the signatures of the bonds and coupon with a canceling punch. (M. C., sec. 2268.)

Sec. 2397. Contents and form of registered bonds.—The registered bonds issued under this article shall be engraved; provided, however, that the name of the holders, the amount, numbers, and other descriptions of the coupon bonds for which they are exchanged and such other matter as may be impracticable to engrave may be written or stamped on the bonds. The registered bonds shall contain the name of the holder or holders thereof, the amount and numbers of the coupon bonds for which they are exchanged, and shall be signed by the mayor, comptroller and treasurer of the City of St. Louis, and attested by the register of said city with the seal of the City of St. Louis thereto affixed, and registered by the auditor of said city in the name of the holder or holders thereof; provided, however, that the registered bonds shall not be signed by the mayor, comptroller and treasurer until the coupon bonds and registered bonds for which they are exchanged shall have been canceled, as provided in section 2400. When the amount is written in the bond, the bond shall be perforated with the figures and characters expressing the amount for which it is issued. The registered bond shall have printed on the back thereof the forms and requirements relating to the transfer of the same. (M. C., sec. 2269.)

Sec. 2398. Transfer of registered bonds—cancellation—new registered bonds to issue.—Upon application of the holders of registered bonds issued under ordinance number seventeen thousand two hundred and fifty-nine, or of their legal representatives, and upon surrender of such bonds at the office of the comptroller of the City of St. Louis, he, the said comptroller, is hereby authorized to transfer the same on the books of the city to such persons or corporations as may be designated in the application. The transfer of such bonds must be in written or printed form, indorsed upon the backs of the bonds, and must be acknowledged before a notary public or other officer authorized under the laws of this state to take acknowledgments to deeds for transfers of real estate, or the signatures of the registered holder of the bonds must be attested by an officer of one of the banks or banking houses designated to act as the fiscal agents of the city in New York or London. Applications for transfers must be filed at the comptroller's office in the City of St. Louis at least ten days before the

date of payment of the semi-annual interest next due on the bonds. The bonds so transferred and surrendered, shall be canceled by the comptroller, who shall issue new registered bonds therefor, cancellation and issuing of new bonds to be done in the same manner as is prescribed hereinbefore, in the case of coupon bonds exchanged into registered bonds. (M. C., sec. 2270.)

Sec. 2399. How principal and interest of registered bonds paid.—The payment of the principal and interest of the registered bonds as the same become due shall be made by draft, payable to the order of the holder at such place as is designated in the coupon bonds for the payment of the principal and interest; in cases where the principal and interest of the coupon bonds are payable in two or more places, at the option of the holder, the said holder shall express his preference for either one of the places at the time of issuing the certificates, at which place so preferred the said draft shall be made payable. (M. C., sec. 2271.)

Sec. 2400. Cancellation of bonds—certificate of—auditor to preserve.—The bonds and coupons for which the registered bonds aforesaid are issued, as also the registered bonds in cases of transfers, shall be canceled by the mayor, comptroller and treasurer and delivered to the auditor of the City of St. Louis and his receipt taken therefor. The auditor shall preserve said canceled bonds and coupons and registered bonds in his office in like manner as other canceled bonds and coupons. The mayor, comptroller and treasurer shall certify, in duplicate, to the cancellation of all bonds and coupons canceled under ordinance number seventeen thousand two hundred and fifty-nine; one of the certificates of cancellation shall be filed in the auditor's office, the other to be preserved in the comptroller's office in a book to be kept for that purpose. (M. C., sec. 2272.)

Sec. 2401. Mayor to appoint examining committee.—The mayor shall annually employ a committee of three persons not connected with the city government, one of whom at least shall be an experienced accountant, who shall examine the books and accounts of the comptroller, auditor and treasurer, and of such other officers and boards of the city government as the mayor may direct, to ascertain if the same have been properly kept and balanced. (M. C., sec. 2273.)

Sec. 2402. Committee to report to assembly.—The said committee shall report the result of their examinations through the mayor to the municipal assembly immediately after the close of such examination, and if their report be approved by the municipal assembly they shall cause the necessary entries to be made in the books of the comptroller and auditor to show the condition of their offices at the end of the fiscal year, and if the close of such fiscal year is the close of the term of any officer, to also show the delivery of the effects of their offices to their successor in office, which entries shall be attested by the signature of the committee. (M. C., sec. 2274.)

Sec. 2403. Committee to examine treasurer's accounts.—The said committee shall examine the books, papers, accounts and vouchers of the treasurer, count the money in the treasury, the auditor's warrants and certificates on hand, and compare them with the treasurer's register thereof, and do all other things necessary to a complete examination of the affairs of the treasurer, and report the result of their examination as provided in the preceding section, and if their report is approved by the mu-

municipal assembly they shall make settlement with that officer to the end of the fiscal year, and also for the time elapsing between that and the time of his going out of office, and shall cause the necessary entries to be made on his books to show the condition of his office at the end of the fiscal year, and at the time of his going out of office, which entries shall be attested by the signatures of the committee. All accounts and vouchers of the treasurer shall, after being examined and found correct, be turned over to the auditor for safe-keeping, and his receipt taken therefor, and all evidence of payment shall be plainly marked upon the face of each account or voucher before being turned over to the auditor as herein provided. (M. C., sec. 2275.)

Sec. 2404. Special examination—when made.—The said committee shall, in like manner, examine the books and accounts of such officers and boards as they shall be directed so to do by the mayor, and in the manner aforesaid report to the municipal assembly the result of such examination, and if their report is approved they shall make settlement with such officers and boards to the end of the fiscal year, and shall cause the necessary entries to be made on the books of such officers and boards to show the condition of offices and boards at the end of the fiscal year, which entries shall be attested by the signatures of the committee. (M. C., sec. 2276.)

Sec. 2405. Compensation of committee.—The compensation of said committee shall not exceed fifteen hundred dollars, and shall be paid out of the appropriation for contingent expenses. (M. C., sec. 2277.)

ARTICLE II.

OF AUDITOR.*

Sec. 2406. Bond and salary.—The auditor shall give bond to the city in the sum of one hundred thousand dollars, with not less than three good securities, who shall be holders of unincumbered real estate within the city; said bond to be approved by the mayor and council; and he shall be responsible for all acts of his employes. He shall receive a salary of four thousand dollars per annum, payable monthly. (M. C., sec. 2278.)

Bond not less than \$100,000: Charter, Art. IV, sec. 21.

*Charter provisions, see Charter, Art. IV, secs. 21, 47-48; Art. V, secs. 8, 11, 12, 13.

Prior auditing laws repealed by sec. 16 of Art. 16, of Charter: *State vs. Francis*, 89 Mo. 408, holding that an itemized account is one which specifies the items making up the aggregate.

Conclusiveness of settlement by auditor: *Gas L. Co. vs. St. Louis*, 11 Mo. App. 55; s. c. 84 Mo. 202.

An auditing officer cannot be mandamusd to audit a claim for which there is no appropriation: *State ex rel. vs. Brown*, 141 Mo. 21. But he may be compelled to draw his warrant to pay the police out of any general revenue, the State law being in effect an appropriation: *State ex rel. vs. Mason*, 153 Mo. 23 (Marshall, J., dissenting on this point).

Duty to audit bills for meals of jury in criminal case: *State ex rel. vs. Smith*, 5 Mo. App. 427.

Auditor cannot review correctness of court's settlement of sheriff's accounts in general term; his sole duty is to issue his warrant which may be compelled by mandamus: *State ex rel. vs. Brown*, 72 Mo. App. 651.

Sec. 2407. Deputy auditor—first and second—offices created—salaries.—There is hereby established the offices of first deputy auditor, and of second deputy auditor, and said officers are authorized to perform all duties required by law or ordinance to be performed by the auditor; said deputies shall be appointed by the auditor, subject to the approval of the mayor; and hold their positions during the pleasure of the auditor; the first deputy auditor shall receive a salary of twenty-five hundred dollars per annum, and the second deputy auditor two thousand dollars per annum, payable monthly. (M. C., sec. 2279.)

Sec. 2408 Clerks—salaries.—The auditor* is hereby authorized, with the approval of the mayor, to appoint the clerks employed in his office and determine the number thereof. Their compensation shall be as follows: One clerk at eighteen hundred dollars per annum; three clerks at fifteen hundred dollars per annum each; and all other clerks at twelve hundred dollars per annum each; all the above salaries to be paid monthly. He shall prescribe regulations defining their duties and for their government. (Ord. 22112, amending M. C., sec. 2280.)

Sec. 2409. General powers and duties.—The city auditor shall be the general accountant of the city, and shall receive and preserve in his office all accounts, books, vouchers, documents and papers relating to the accounts or contracts of the city, its debts, revenues, and other fiscal affairs. He shall state and render all accounts filed or kept in office, whether between the city and any officers thereof or between the city and any other person or body corporate, except when otherwise provided by law or ordinance. He shall establish proper rules for the government of his office and prescribe the form of accounts, and of all certificates and receipts to be attached thereto. He shall have the power to administer oaths, and shall require settlements to be verified by affidavits whenever he thinks proper. He shall keep the accounts of the city, general and special, in a systematic and orderly manner in the form of double entry book-keeping. The auditor shall not allow any papers, vouchers, documents or books belonging to his office to be taken away except under legal process. (M. C., sec. 2281.)

See Charter, IV, sec. 21.

Sec. 2410. Shall audit and certify accounts and demands.—The city auditor shall examine, adjust and audit all unsettled accounts, claims and demands against the city, for payment of which any money may be drawn from the city treasury, when such claims and demands are certified and presented in proper form, and are duly authorized by law or ordinance, and after having examined the same with all accompanying documents, and found them correct, he shall certify thereon the balance or true state of such claim or demand, and draw his warrant for the same on the treasury for the payment thereof; provided, no such claim or demand, or any part thereof, shall be audited against the city, unless it is authorized by law or ordinance, and is in proper or fully itemized form, and the amount required for the payment of same shall have been appropriated for that purpose, by ordinance; provided further, that all unadjusted accounts before they are audited must bear the necessary certificates and signature of the officers having knowledge of the facts, and shall be allowed by the auditor and comptroller, or, in case of their disagreement, then by either of them and the mayor; and provided further, no warrants shall be issued on any appropriation, unless there is an unexpended balance to the credit thereof sufficient to cover such warrant, and money in the treasury to pay it. (M. C., sec. 2282.)

Charter, Art. V, sec. 13. See also *ib.*, IV, sec. 21.

Sec. 2411. Warrant to specify fund—shall take receipt.—Every warrant drawn by the auditor shall specify the fund or appropriation out of which it is to be paid; and before its delivery to the party entitled thereto the auditor shall require of said party a proper and legal receipt for said amount thereof, which shall be attached to said claim and demand; and said accounts, claims and demands, and the receipts and accompanying papers, shall be filed by the auditor in his office. (M. C., sec. 2283.)

Sec. 2412. Claims to be audited and paid within one year.—No claim against the city which is not founded on a bond or other instrument of writing, executed by the city, shall be audited and paid which has not been presented within one year from the time such claim became due. This shall also include all jury and witness fees and costs of inquests for which certificates have been issued. (M. C., sec. 2284.)

Sec. 2413. Unclaimed five-year warrants barred.—Whenever any warrant drawn on the city treasurer shall have remained in the possession of the city auditor for five years, unclaimed, or not called for by the person in whose favor it shall have been drawn, or his or her legal representatives, the mayor shall order the comptroller and auditor to annul and cancel the same, which fact shall be made a matter of record in the office of the comptroller and auditor. (M. C., sec. 2285.)

Sec. 2414. Warrant not presented for payment within five years barred.—Whenever any such warrant, being delivered, shall not be presented to the city treasurer for payment within five years after the date thereof, such warrant shall be barred and not paid by the treasurer, nor shall it be received in payment of taxes or other dues. (M. C., sec. 2286.)

Sec. 2415. Sums remaining unpaid on pay-roll for one year—transfer of.—All sums of money remaining unpaid on pay-rolls returned by the city treasurer to the auditor's office and uncalled for by the proper persons or other legal representatives within one year shall be transferred by the auditor to the respective funds from which they were drawn. (M. C., sec. 2287.)

Sec. 2416. When warrant cannot be drawn.—The auditor shall not draw a warrant on the treasurer in favor of any person who is indebted to the city, or the assignee of such person except for the balance which may appear to be due to such person, over and above the debt due the city; nor shall he draw a warrant in favor of any officer who is in arrears or in default to the city. (M. C., sec. 2288.)

Sec. 2417. Unpaid sums due city from city officers—action.—Whenever, upon the adjustment of any account, a sum of money shall be found by the auditor to be due to the city, from any city officer, and the same shall not be paid into the city treasury within ten days after the adjustment of the account and the treasurer's receipt therefor delivered to the auditor, he shall certify the amount so due to the mayor, who shall order suit to be commenced against the delinquent, or take such other measures as in his judgment will most effectually secure the city from loss. (M. C., sec. 2289.)

Sec. 2418. Duties as to copies and as to inspection of books, etc.—The auditor, whenever required, shall furnish the mayor or municipal assembly, or committees thereof, copies or abstracts of any books, accounts, records, vouchers, or documents in his office, or any information in relation to anything pertaining to his office, or the revenue of the city, and he shall at all times permit the mayor or any member of the municipal assembly, the comptroller, or any other officer interested, to examine any books, papers or documents in his office. (M. C., sec. 2290.)

Sec. 2419. Fiscal term.—The fiscal term of the auditor shall commence on the second Tuesday in April in each year. (M. C., sec. 2291.)

Sec. 2420. Appropriations—duties as to.—Whenever the municipal assembly shall, by ordinance, appropriate any money out of the municipal revenue, or out of any special funds, or shall transfer money from one fund to another, the auditor shall immediately make such transfer on his books, in accordance with the ordinance. And if any appropriation be made by ordinance in behalf of any public work, the auditor shall, as soon as the work is completed, transfer the balance remaining to the account or fund from which it was originally appropriated. (M. C., sec. 2292.)

Sec. 2421. To have free access to books of officers.—To enable the auditor to execute the provisions of this chapter, it is hereby made the duty of all city officers having any books, records or accounts in their possession, to allow the auditor free access to the same, to make such examination as he may deem necessary. (M. C., sec. 2293.)

Sec. 2422. Trial balance to be made monthly.—The auditor shall make and keep a “trial balance” of his general ledger once each month, and shall include in his annual and semi-annual reports to the comptroller a copy of his “trial balance,” and shall communicate such other information pertaining to the business in his office as may be required or rendered necessary. (M. C., sec. 2294.)

Sec. 2423. Statements to be rendered by comptroller charged to collector, etc.—The city comptroller shall render to the city auditor a statement, accompanied by a receipt from the city collector, of all licenses, tax bills and other bills countersigned by him and turned over to the collector, whenever and as often as any licenses or bills shall be so delivered to the collector, and thereupon the auditor shall charge the collector with the amount so reported by the comptroller. And the comptroller shall furnish the auditor with all settlements made with the officers of the city, and such other statements as may be deemed necessary to effectuate the purposes of this chapter. (M. C., sec. 2295.)

Sec. 2424. Books and records—what to be kept.—The following books and records shall be kept by the auditor in his office:

First—A record of claims: With appropriate columns and headings, wherein shall be entered every account allowed or paid, showing on what account made, its date and name of claimant, the amount claimed, amount allowed, amount rejected, number of warrant, the fund paid from and such other information as may be desirable.

Second—Warrant books: With stubs showing the date of warrant, their number, amounts, the fund paid from, the numbers of claims and names of claimants, and such other information as may be useful; which stubs shall be kept and preserved as records of warrants issued.

Third—Bills payable books: Into which [shall be entered] all bonds, notes, bills and all other written obligations, given or payable by the city, with the name of the maker, payee and holder, and the time when payable, principal and interest.

Fourth—Bills and accounts receivable books: Into which shall be entered all demands and claims held by the city against other persons or corporations, whether written obligations or open accounts, whether for the sale of lands or property, or other thing, or for rent or other consideration, which shall represent the names of debtors, character of claims and obligation, the amount thereof, and when due and payable.

Fifth—Register of bonds of the city: With appropriate columns and headings, representing date of issue, to whom, on what account and when payable, showing amount of bonds, rate of interest, and amount of semi-annual coupons and all other necessary information. (M. C., sec. 2296.)

ARTICLE III.

OF COMPTROLLER.*

Sec. 2425. **Office created.**—There is hereby created the office of comptroller. (M. C., sec. 2297.)

Sec. 2426. **Bond of comptroller.**—The comptroller shall give bond to the city in the sum of three hundred thousand dollars, with not less than three good securities, holders of unincumbered real estate in the City of St. Louis, to be approved by the mayor and council. (M. C., sec. 2298.)

Same as Charter, Art. IV, sec. 20.

Sec. 2427. **Comptroller's powers and duties.**—The comptroller shall exercise a general supervision over the fiscal affairs of the city, the collection and return into the treasury and disbursement of all revenue and moneys of the city; of all property, assets and claims and the sale or other disposition thereof, and by and with the advice and consent of the mayor, shall see that all necessary official and legal proceedings are had for the protection of the city's interests in all such property, assets and claims; that proper rules and regulations are prescribed and observed in relation to all accounts, settlements and reports connected with the fiscal concerns of the city; that no liability is incurred or expenditure made from the treasury without due authority of law, and that appropriations are not overdrawn. He is especially charged with the preservation of the credit and faith of the city in relation to the public debt and other liabilities, and whenever it is necessary to meet payments thereof, principal or interest, he shall, with the written approval of the mayor, make his requisition for a warrant on the treasury for that purpose, and shall with the mayor's written approval, do and perform any and all other acts and things not inconsistent with the provisions of the charter and any ordinance thereunder, as are proper to accomplish the duties contemplated herein. He shall make annual reports to the municipal assembly and to the mayor at his request on the financial conditions and requirements of the city, with careful statements and estimates of receipts and expenditures. The records in his office shall show the financial operations, condition, property, assets and

*Charter provisions affecting comptroller: Art. IV, secs. 1, 20, 22, 24, 29; Art. V, secs. 5, 8, 12, 13, 26, 28, 29; Art. VI, secs. 10, 24, 26; Art. VII, sec. 10; IX, sec. 6; XII, sec. 7; XIII, sec. 5; XVI, secs. 7, 14.

claims of the city, the expenditures authorized for public work and all contracts, with name of contractors, in which the city is interested and the bonded or other indebtedness of the city. He shall require all claims, returns, settlements or reports to be verified by affidavit. He shall countersign all warrants drawn on the city treasury for any payment except as hereinafter provided, and shall duly record the amount and nature of same. He shall have access to the books and other records of any department under the city government, whenever he so desires, and he shall see that the accounts of the city are kept in a plain, methodical manner. He shall have a seat in either branch of the municipal assembly, with the right to debate on any question pertaining to his department, but shall have no vote. Should any judgment be rendered against the city for which no provision has been made by ordinance or otherwise, the comptroller is authorized, with the approval of the mayor, to effect a temporary loan to meet the same; and to do and perform all other acts, with the approval of the mayor, necessary to preserve the credit and property, or rights of the city, and perform such other duties as may be provided by ordinance. All delinquent or special tax bills, and all other claims, marshal's, sheriff's or constable's deeds, or certificate of sale in the nature of liens on property in which the city is directly or indirectly interested as owner or creditor, shall be deposited with the comptroller, and his receipt taken therefor and filed with the auditor. He shall keep a full and complete register thereof, and whenever the treasurer's receipt is presented and filed in his office for any such bill or claim, he shall release the same on the register, and when necessary the mayor and comptroller shall execute a quitclaim deed for the property redeemed. (M. C., sec. 2299.)

See Charter, Art. IV, sec. 20; V, sec. 26; VI, sec. 24; and notes thereto.

Sec. 2428. Offices of first assistant and second assistant comptroller created—duties and powers.—There is hereby created the office of first assistant comptroller, and second assistant comptroller. The first assistant comptroller and the second assistant comptroller shall be appointed by the comptroller, subject to approval by the mayor, and shall perform such duties as the comptroller may direct, and the first assistant comptroller, in the case of the absence or sickness of the comptroller, shall perform all the duties of the comptroller, and the second assistant comptroller shall in like manner perform all the duties of the comptroller, in the case of the absence or sickness of both the comptroller and first assistant comptroller, and said officers when performing the duties of comptroller, shall designate themselves as "acting comptroller," and the comptroller and his securities shall be responsible for the official acts of the first assistant comptroller and second assistant comptroller. (M. C., sec. 2300.)

Sec. 2429. Office of supervising accountant and statistician.—There is hereby created the office of supervising accountant and statistician. The supervising accountant and statistician shall be appointed by the comptroller, subject to approval by the mayor, and shall perform such duties as the comptroller may direct. In case the comptroller, the first assistant comptroller and the second assistant comptroller should all be absent or sick at the same time, the supervising accountant and statistician shall perform all the duties of comptroller and shall designate himself while in the performance of such duties as "Acting Comptroller," and the comptroller and his securities shall be responsible for the official acts of the supervising accountant and statistician. (Ord. 21407, sec. 2300 A.)

Sec. 2430. Salaries.—The comptroller shall receive an annual salary of five thousand dollars, the first assistant comptroller an annual salary of twenty-five hundred dollars, the second assistant comptroller an annual salary of eighteen hundred dollars, and the supervising accountant and statistician an annual salary of twenty-five hundred dollars. (M. C., sec. 2301, and ord. 21407, sec. 2301 A.)

Ord. 21407 fixed the salary of the new officer (the statistician) created in the same ordinance.

Sec. 2431. Clerks may be appointed—salaries.—The comptroller is hereby authorized, with the approval of the mayor, to appoint the clerks employed in his office, and determine the number thereof. Their compensation shall be as follows: Not exceeding four clerks at fifteen hundred dollars per annum, each; not exceeding five clerks at twelve hundred dollars per annum, each, and all other clerks and employes, employed permanently or temporarily, at the rate of nine hundred dollars each. The comptroller shall prescribe regulations defining their duties, and for their government. (M. C., sec. 2302.)

Sec. 2432. Deeds, to certain property, comptroller and mayor to execute.—The mayor and comptroller are hereby authorized and directed to issue quitclaim deeds to the parties from whom the city acquired title, or to their legal representatives, for all property bought by the City of St. Louis for assessments of benefits in opening streets and alleys. (M. C., sec. 2303.)

Sec. 2433. Purchase money and expenses to be paid before delivery of deed—exceptions.—Before any such deed shall issue the amount of the purchase money paid by the city for such property, as also all money expended by the city on account of such property, together with interest at the rate of six per cent per annum, from the date of purchase and expenditure of money aforesaid, and costs, shall be paid into the city treasury, and a receipt for the same filed with the comptroller, and thereupon a deed shall issue for the property so redeemed. Provided, however, that, in all cases, in which the City of St. Louis has purchased any real property, or any interest therein, under a judgment or execution in a street or alley proceeding originating prior to October twenty-second, eighteen hundred and seventy-six, or there exists an unsatisfied special assessment of the above character in favor of the city, the property affected may be redeemed upon the following conditions, namely: In cases where the property was purchased by the city under a judgment or execution, there shall be paid into the city treasury one-half of the amount of purchase money named in the deed and thereupon a deed shall issue for the property so redeemed, providing, however, that this section shall not apply to property of which the city is in possession. In cases where there exists an unsatisfied special assessment of the character described above there shall be paid into the city treasury one-half of the amount of the original assessment, and thereupon such special assessment shall be marked satisfied on the records in the comptroller's office. (M. C., sec. 2304.)

Sec. 2434. Notice to be given.—The comptroller is hereby authorized to notify the parties interested herein, in such manner as to him shall seem most expedient. (M. C., sec. 2305.)

Sec. 2435. Comptroller to examine books of officers.—It shall be the duty of the comptroller to make personal examinations of the

books of the treasurer and other officers whenever and as often as he may think proper or the interest of the city may require, and in conjunction with the committee on ways and means of both houses of the municipal assembly, shall ascertain by actual count the balance on hand in the treasurer's office, or subject to his control; provided, that such examination and count shall be made as often as once in each month. (M. C., sec. 2306.)

Sec. 2436. What forms to be prescribed by comptroller—responsibility for entire fiscal management.—The forms of accounts and claims presented for allowance, the funds from which they are to be paid, the form and manner in which the books of the several fiscal officers, except the city auditor, are kept, and all reports, returns, settlements, blanks and other things pertaining to the management of the fiscal affairs of the city, shall be subject to the direction and approval of the comptroller, and being responsible for the accuracy and efficiency of the system of business in his department, it is his duty to see that these regulations and such other necessary rules or instructions are prescribed and observed as are necessary to effectuate the purposes contemplated herein. (M. C., sec. 2307.)

Charter, IV, sec. 20.

Sec. 2437. Reports of comptroller.—The comptroller shall prepare his annual and semi-annual reports upon the financial conditions of the city according to the provisions of the charter and ordinances, and shall lay the same, together with the reports of the other fiscal officers, before the mayor, for his inspection, and to be by him submitted to the council annually. (M. C., sec. 2308.)

Charter, Art. IV, sec. 48.

ARTICLE IV.

OF TREASURER.*

Sec. 2438. Office created.—There is hereby created the office of treasurer. (M. C., sec. 2309.)

Sec. 2439. General duties specified—bond—city deposits.—It shall be the duty of the treasurer to receive and keep the money of the city and pay out the same on the warrants drawn by the auditor and countersigned by the comptroller, except as hereinafter provided. All moneys belonging to the city received by any officer or agent thereof, either from collections, loans, sale of bonds, fees, fines and penalties or otherwise, shall be deposited in the city treasury regularly once a day, unless otherwise provided by law or ordinance, and in case the provisions of this section are not complied with, it shall be the treasurer's duty to report any delinquencies to the mayor. He shall give triplicate, or quadruplicate, receipts as may be required, in all cases; one for the party paying, one for the auditor and one for the comptroller, which shall set out the amounts paid, from what it proceeds, and to what account credited. All pay-rolls when audited and placed in the treasurer's hands for payment shall be charged against him on a separate account to be known as "treasurer's pay-roll account." On the Saturday preceding the close of each fiscal month the treasurer shall return to the auditor all pay-rolls received by him during the preceding calendar month. The auditor shall examine the pay-rolls so

*Charter provisions affecting treasurer: Charter, Art. IV, secs. 1, 22, 24, 30, 48; Art. V, secs. 7, 31; Art. IX, sec. 9; Art. VI, sec. 6; Art. XVI, sec. 18.

returned and credit the "treasurer's pay-roll account" with the amount paid thereon and charge the treasurer's general account with the amount remaining unpaid. The pay-rolls so returned to the auditor shall be filed by him with the respective original vouchers in his office. The amounts remaining due on pay-rolls shall be entered by the auditor upon a book kept for that purpose, names, sums, account, number and date of the original voucher, and such amounts shall thereafter be paid only by separate warrants or pay-rolls. During the time the pay-rolls remain in the treasurer's hands the amounts due on same shall be separately accounted for by said treasurer in his daily reports to the mayor and comptroller. His books shall at all times be open to the inspection of the mayor, comptroller or any member of the municipal assembly, and he shall furnish an itemized report of the condition of the treasury each day to the mayor and comptroller. He shall give bond for the faithful performance of his duty in the sum of five hundred thousand dollars, with not less than five securities, who shall be holders of unincumbered real estate within the city, to be approved by the mayor and council. The mayor, comptroller and treasurer shall annually select a bank or banking institution which shall give the highest rate of interest for the current deposit of the city's funds; provided, however, before any deposit shall be made therein by the treasurer the said banks or banking institutions shall give a bond for five hundred thousand dollars, with good and sufficient securities, to be approved by an unanimous vote of the fund commissioners, for the safe-keeping and prompt payment of said funds or any part thereof when demanded by the treasurer and shall at all times keep the securities on its bond satisfactory to said commissioners. Provided, however, that unless directed by the mayor and comptroller, the bank offering the highest rate of interest for such current deposits shall be entitled to the first five hundred thousand dollars thereof, the bank offering the next highest rate to the next five hundred thousand dollars thereof, and so on until the amount to be deposited is provided for; and thereafter the treasurer shall, unless otherwise directed by the mayor and comptroller, draw first against the deposit in the bank offering the lowest rate of interest until such deposit is exhausted, and then next upon the deposit in the bank offering the next lowest rate of interest, and so on drawing against the deposit drawing the lowest rate of interest until it is exhausted, and shall not draw against the deposit in any bank paying a higher rate of interest, until the amount of deposit in the bank paying a lower rate of interest is exhausted; and when the deposit in a bank so authorized to be drawn upon is exhausted, the treasurer shall not be entitled to draw upon the bank paying the next highest rate of interest until the officers of such bank shall be notified by the comptroller that the fund in such bank is needed and will thereafter be drawn upon; and in making deposits the treasurer shall, unless otherwise directed by the mayor and comptroller, fill up the total amount to be deposited in the banks in the order of the rate of interest paid by each, and shall not deposit in a bank paying a lower rate of interest until the amount to be deposited in the bank paying the next higher rate of interest shall have received the full amount to be deposited therein. And it shall be the duty of the bank so authorized to be drawn upon, at the close of each day's business, to mail a statement to the comptroller showing the balance due to the credit of the city at the close of business hours for that day. (M. C., sec. 2310.)

See Charter, IV, sec. 22 and note thereto.

Sec. 2440. **Additional rules.**—It shall further be the duty of the treasurer: First. To keep in proper books a full and comprehensive account of all moneys received and delivered by him in behalf of the city, representing the time when, and the persons from whom all funds are re-

ceived as well as the time when, and to whom all moneys are paid out, and on what account all moneys are received and disbursed. Second. To keep a register of all warrants which are received into the treasury redeemed and paid, describing all warrants by their dates, amounts, numbers and the names of the payees, and specifying the time when, from whom and on what account they are received and paid respectively, and all warrants so redeemed and paid shall be canceled by the treasurer. At the close of each day he shall turn the same over to the auditor, together with a list of the same, taking the auditor's receipt on his cash book for all warrants so turned over. The auditor shall daily credit the treasurer's account with the aggregate amount of warrants so returned to him by the treasurer, and shall report said aggregate amount of warrants returned to him to the comptroller. The warrants so returned shall be filed by the auditor with the vouchers in his office. Third. To settle at the close of each month with the comptroller and auditor all accounts on his books, and to ascertain and state therein the balance of funds in his hands. Fourth. To deposit daily to the credit of the city, in the bank or banking institutions selected therefor, as provided in section 2439, all moneys in his office at the close of banking hours, except sufficient currency to meet the necessary expenses during the remainder of the day not exceeding ten thousand dollars. The treasurer shall perform all other duties required of him by law. (M. C., sec. 2311.)

Sec. 2441. Prohibition from personal use of moneys.—The treasurer is hereby expressly prohibited from paying out or using himself or allowing any one else to use, directly or indirectly, any of the public moneys, warrants, checks, or other evidences of debt in his custody or under his control for any purpose whatever, public or private, which is not authorized by law or ordinance, and any violation of the provisions of this section shall cause a forfeiture of his office. (M. C., sec. 2312.)

Sec. 2442. Assistant treasurer and other employes—duties, etc.—There is hereby created the office of assistant treasurer, who shall act as teller, also the office of paymaster, also the offices of two clerks and one assistant clerk, each of whom shall be appointed by the treasurer subject to the approval of the mayor, whose duties shall be as follows: The assistant treasurer, in the absence of the treasurer, shall perform all the necessary duties of the treasurer; the paymaster shall have charge of all pay-rolls of the city, and it shall be his duty to receive from the treasurer the amount of money necessary to pay such pay-rolls; all such payments, whenever practicable, shall be made by such paymaster at the treasurer's office in the city hall; such as cannot be paid there shall be paid by such paymaster at some convenient place near the points at which the persons to be paid are at work, to be determined, from time to time, by the paymaster, subject to the approval of the treasurer.

The assistant treasurer, the paymaster, the two clerks and the assistant clerk shall also perform such other duties as may be prescribed by the treasurer and shall each be subject to the orders of the treasurer, and may be removed by him at any time. It shall also be the duty of the assistant treasurer at the close of each day's business to notify the comptroller of the number, character and amount of each bond or coupon of the City of St. Louis paid on that day at the office of the treasurer. (Ord. 19970, amending M. C., sec. 2313.)

Sec. 2443. **Treasurer responsible for acts of employes—bonds.**—The treasurer shall be responsible for the acts of his subordinate or appointees, and shall require of each subordinate or appointee a bond in such amount as he may deem necessary, conditioned for the faithful performance of all the duties pertaining to the position to which he has been appointed. (M. C., sec. 2314, and ord. 19970.)

Sec. 2444. **Rules as to transaction of business may be established.**—The treasurer may establish such rules and regulations for the transaction of business generally in his office, and especially in relation to the payment of pay-rolls of the several departments and public institutions as he may deem expedient, subject to the approval of the mayor, not inconsistent with the charter and ordinances. (M. C., sec. 2315.)

Sec. 2445. **Horse and buggy allowed office.**—One horse and buggy shall be allowed to the office of the city treasurer, to be acquired and maintained at the expense of the city; the purchase price of the outfit, consisting of a horse, buggy and harness, shall not exceed three hundred and seventy-five dollars. (M. C., sec. 2316.)

Sec. 2446. **Salaries.**—The treasurer, the assistant treasurer, the paymaster, the two clerks and the assistant clerk shall receive the following salaries: Treasurer, five thousand dollars per annum; assistant treasurer, two hundred dollars per month; paymaster, one hundred and seventy-five dollars per month; two clerks, each one hundred and twenty-five dollars per month; assistant clerk, one hundred dollars per month. (Ord. 19970.)

This section is amended by ord. 23084, approved June 25, 1907.

CHAPTER 38.

WATER RATES, DEPARTMENT OF.

- ART. I. Of assessor and collector.
 II. Of swimming baths.
 III. Of water rates.

ARTICLE I.

OF ASSESSOR AND COLLECTOR.*

Sec. 2447. **Office assessor and collector created.**—There is hereby established and created the office of the assessor and collector of water rates. (M. C., sec. 2318.)

Sec. 2448. **Appointment.**—The assessor and collector of water rates shall be appointed by the mayor and confirmed by the council, and shall hold his office for the term of four years, and until his successor is duly appointed and qualified. (M. C., sec. 2319.)

See Charter, Art. VII, sec. 7.

Sec. 2449. **Salary.**—The assessor and collector of water rates shall receive a salary of three thousand dollars per annum, payable monthly. (M. C., sec. 2320.)

Charter VII, sec. 8. His salary cannot be increased during his term, and the period during which he holds over after his four-year term is considered part of the term, so that a law increasing the salary does not apply to him during such holdover period: State ex rel. vs. Smith, 87 Mo. 158.

*Charter provisions: Art. VII, secs. 7-13; Art. IV, secs. 2, 47.

Sec. 2450. Bond.—He shall, before entering upon the duties of his office, give a bond in the sum of one hundred thousand dollars, with not less than four good sureties, owners of unincumbered real estate within the city, of the assessed value of one hundred thousand dollars, to be approved by the mayor and council, conditioned that he will faithfully and punctually collect and pay to the treasurer of the city all moneys due and collectible for and on account of the water works, and revenue derived therefrom, and that he will faithfully perform all the duties of his office, and that he will cause all the ordinances in relation to his office to be strictly enforced. (M. C., sec. 2320 A.)

Charter, VII, sec. 8. For a period during which he holds over after his regular term, the sureties are liable on the official bond: Per Black, J., in *State ex rel. vs. Smith*, 87 Mo. 158, 160, citing *Long vs. Seay*, 72 Mo. 648, and *State ex rel. vs. Kurtzeborn*, 78 Mo. 99.

Sec. 2451. Deputy—appointment—duties—bond.—The assessor and collector of water rates shall have authority to appoint, subject to the approval of the mayor, a deputy, who shall act in his place when absent, and shall at all times act as superintendent of district inspectors, and perform such other duties as may be required of him. He shall give bond to the assessor and collector of water rates, with security satisfactory to the assessor and collector, in the sum of twenty thousand dollars, for the faithful performance of his duties. (M. C., sec. 2321.)

Sec. 2452. Employees enumerated.—The assessor and collector of water rates shall also have authority to appoint such other clerks and assistants, as are provided by this article, subject to the approval of the mayor and to be designated as follows: One cashier, two principal clerks, eleven general office clerks, one draughtsman, one meter and hydraulic elevator inspector, eight assistant meter and hydraulic elevator inspectors, one night watchman, and twenty district inspectors who shall also act as turnkeys, and each of said employees shall perform such other work as the assessor and collector of water rates may require of them. (M. C., sec. 2322.)

For additional employees and their salaries, see *infra*, sec. 2455; and also ordinance 23000 (enacted after the Revised Code).

Sec. 2453. Principal responsible for acts of employees—bond.—The assessor and collector of water rates shall be responsible for the acts of his deputy, clerks and other subordinates, and may require for his own protection from any of his employees charged with the collection of money, a bond in the penal sum of ten thousand dollars conditioned for the faithful performance of their duties, and for the paying over of all moneys belonging to the city. (M. C., sec. 2323.)

Sec. 2454. Salaries of deputy and clerks.—The appointees of the assessor and collector of water rates shall receive the following compensation per annum in full for their services, payable monthly, to wit: Deputy assessor and collector, twenty-four hundred dollars; cashier, eighteen hundred dollars; principal clerks, each, twelve hundred dollars; general office clerks, each, one thousand and eighty dollars; draughtsman, twelve hundred dollars; meter and hydraulic elevator inspector, twelve hundred dollars; four assistant meter and hydraulic elevator inspectors, each one thousand and eighty dollars; four assistant meter and hydraulic elevator inspectors, each, nine hundred dollars; night watchman, seven hundred

and twenty dollars; twelve district inspectors, each one thousand and eighty dollars; eight district inspectors, each, nine hundred dollars. (M. C., sec. 2324.)

Sec. 2455. Additional employes*—salaries.—In addition to the inspectors and clerks now appointed by the assessor and collector of water rates he shall have authority to appoint the following, to wit: Two assistant meter and hydraulic elevator inspectors, who shall each receive the sum of one thousand and eighty dollars per annum; one district inspector, who shall also act as turnkey, and who shall receive nine hundred dollars per annum, and two general office clerks, who shall each receive one thousand and eighty dollars per annum, all of said salaries to be payable in equal monthly installments. (Ord. 20219.)

*By ordinance 23000 (enacted after the Revised Code), three additional clerks and inspectors are provided for, at \$90 per month, and two inspectors and turnkeys at \$75 per month. (See this ordinance set out in Appendix.)

Sec. 2456. Duties of assessor and collector.—It shall be the duty of said assessor and collector to collect all revenue due, or to become due, to the city for water, or accruing to the city on account of the water-works thereof, by virtue of any ordinance now existing or hereafter to be passed or otherwise. (M. C., sec. 2325.)

Charter, Art. VII, sec. 7.

Sec. 2457. Moneys deposited, where—suspension in case of failure.—At the close of each day the assessor and collector of water rates shall deposit in the city treasury the revenue and all other moneys collected during the day, taking duplicate receipts for the same, one of which shall be deposited with the comptroller and one with the auditor. Every failure in this respect shall be by the treasurer and auditor reported to the mayor, upon which the mayor may suspend or remove said collector. (M. C., sec. 2326.)

Charter, Art. VII, sec. 9.

Sec. 2458. Blanks for water license, etc.—It shall be the duty of the register to cause to be printed all blanks for water licenses, tap permit receipts, turn on and other receipts, and deliver the same to the comptroller, and take his receipt therefor. (M. C., sec. 2327.)

Sec. 2459. Same—comptroller to countersign and deliver.—The comptroller shall countersign all blanks received from the register for water licenses, and deliver the same to the assessor and collector of water rates upon his requisition, and take his duplicate receipt therefor, expressing therein the number of each class of license and the aggregate amount of same, one of which he shall file with the auditor. No license or receipt issued by the assessor and collector of water rates shall be valid unless countersigned by the comptroller. (M. C., sec. 2328.)

Charter, Art. VII, sec. 10.

Sec. 2460. Report to comptroller monthly.—The assessor and collector of water rates shall, on the first day of each month, make to the comptroller a full and complete statement of all collections made by him; also, the number and face value of each kind of blank licenses and receipts not used by him, which statement the comptroller shall examine and verify. (M. C., sec. 2329.)

Charter, Art. VII, sec. 10.

Sec. 2461. **Annual report to municipal assembly.**—It shall be the duty of the assessor and collector of water rates to report, through the mayor, to the municipal assembly, at its first stated session in each year, a particular account of the affairs of the department under his charge for the preceding twelve months, together with such suggestions and recommendations as he may deem proper. (M. C., sec. 2330.)

Charter, Art. IV, sec. 47.

Sec. 2462. **Board of health may use city water—procedure.**—The board of health shall have power, whenever in their opinion it is demanded as a sanitary measure, to issue an order to the water commissioner for the use of water from the waterworks of the city, in any house or building within the city, and shall cause such order to be made a matter of record in their proceedings, and a copy of said order, signed by the presiding officer of the board of health and attested by the clerk of said board, shall be transmitted to the water commissioner, who shall immediately, upon the receipt of said order, refer the same to the assessor and collector of water rates, who shall enforce said order as provided in the next succeeding section. (M. C., sec. 2331.)

See Charter, Art. VII, sec. 6, for authority for this and next two succeeding sections. See also *Tiefel vs. St. Louis*, 42 Mo. 578, 593.

Sec. 2463. **License to be required as sanitary measure—when—penalty.**—The assessor and collector of water rates may require owners or lessees or agents of tenement houses and other buildings rented to tenants in the city, or in such parts thereof as he is ready to supply with water, to take out license and make the proper connections with the water main for the use of water for such house or building, according to the rates and assessments as fixed by ordinances of the city for the use of water, whenever the board of health shall, by order duly made, declare that the use of water from the waterworks of the city in any such house or building is demanded as a sanitary measure for the preservation of the health of the inmates or inhabitants of such house or building, and the said rate of assessment shall be paid by all such proprietors, owners or lessees or their agents, as well by those who consent as by those who refuse to place in their houses and buildings the water pipe to convey the same, and shall be payable whenever the assessor and collector of water rates shall have notified the proprietor, owner, lessee or his or her agent, of the readiness of said assessor and collector of water rates to supply such house or building with water as aforesaid. Any person or persons having received a notice from the assessor of water rates, as provided for in this section, and who shall or will neglect to comply with the provisions of said notice within five days after the receipt of said notice, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than five hundred dollars, to be recovered for the use of the city before any court or officer having competent jurisdiction. (M. C., sec. 2332.)

See *Ibid.*

Sec. 2464. **When owners shall comply with notice of assessor—penalty.**—Whenever the owner or agent of any house or building in the city shall rent or lease any such house or building to two or more persons, then and in that case it is hereby made the duty of the owner or owners, agent or agents of such houses or buildings, to comply with the provisions of the notice of the assessor of water rates, and any owner or owners, agent or agents, failing or neglecting to comply with the provisions

of said notice of said assessor of water rates shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than five hundred dollars for the use of the city, before any court or officer having competent jurisdiction; provided that nothing in this and the next two preceding sections shall prevent the accused, on trial for a violation of any of their provisions, from setting up in defense that the premises complained of were well supplied with good, wholesome water, and proof of said fact shall work a discharge from all pains and penalties of this and the next two preceding sections. (M. C., sec. 2333.)

ARTICLE II.

OF SWIMMING BATHS.

Sec. 2465. Rates for swimming baths.—The water rates for swimming baths or schools, maintained or kept open for public patronage in this city, are hereby established at three hundred dollars for the season, from April first to November first in each year, payable as follows: One hundred dollars on the fifteenth day of June, one hundred dollars on the fifteenth day of July and one hundred dollars on the fifteenth day of August; provided, that in consideration of a faithful compliance with the provisions of the next following section, the said license shall authorize and entitle party to the use of such reasonable quantity of water as may, in the opinion of the water commissioner, be sufficient; and to prevent undue waste of water, a meter shall be used at each establishment licensed hereunder. (M. C., sec. 2334.)

Sec. 2466. Charges to patrons, on certain days—penalty.—Every bathing and swimming establishment availing itself of the provisions of this article shall upon every Tuesday and Friday during the season charge only ten cents for adult persons bathing or swimming therein, and five cents for persons under fifteen years of age. Any failure on the part of a bathing or swimming establishment to observe the provisions of this section shall work a forfeiture of its license. (M. C., sec. 2335.)

Sec. 2467. Waste of water—penalty for.—Whenever it shall come to the knowledge of the water commissioner that the proprietor or proprietors of any swimming bath or school is allowing or permitting an undue waste of water, the said water commissioner shall cause the license issued to said swimming bath or school to be immediately revoked. (M. C., sec. 2336.)

ARTICLE III.

OF WATER RATES.*

*Provisions of Charter: Assembly may regulate water rates; how revenue from water rates applied: Art. VII, sec. 11; water rates to be fixed so as to pay current expenses of works and interest on water bonds, and exceptional discriminations are forbidden: *ib.*, sec. 12; sale or lease of water works forbidden; fund for payment of interest and principal of water bonds: *ib.*, sec. 13.

Payment by a consumer of water under a threat of shutting off the supply unless the fees demanded be paid, is payment under compulsion, even without tender of the rightful amount, and the excess may be recovered: *Brewing Assn. vs. St. Louis*, 140 Mo. 419; *Westlake vs. St. Louis*, 77 Mo. 47. And such compulsion or duress sufficiently appears, it was held, from a petition which alleges the plaintiff to be "entirely dependent for its supply of water" upon the

city works, coupled with a declaration that the city exacted an illegal charge, which plaintiff paid: *Brewing Co. vs. St. Louis*, 187 Mo. 367. The obligation to pay for water consumed rests on contract, not the taxing power, the city acting in its private, not governmental capacity: *Brewing Assn. vs. St. Louis*, 140 Mo. 419. As to the right to require use of particular kind of hydrant prior to the present charter, see *State vs. Goodfellow*, 1 Mo. App. 495. Right of a water company to make extra charge for waste of water: *McDaniel vs. Waterworks Co.*, 48 Mo. App. 273.

Sec. 2468. Licenses—how issued—how paid—term of.—Licenses for the use of water from the city waterworks shall be issued by the assessor and collector of water rates, and the amounts charged shall conform to the rates established by this article. The rates assessed shall in all cases be paid in advance and all licenses shall be dated on the first day of the month in which the same are granted. Licenses may be issued for six months or for one year as the applicant may desire, except as hereafter provided in section 2470. (M. C., sec. 2337.)

Brewing Co. vs. St. Louis, 187 Mo. 369, 372 and 381.

Sec. 2469. License to specify what.—Each license shall specify the premises on which the water is to be used, the purpose to which it is to be applied, and the dates of the issue and the expiration of the license, and such other information as the assessor and collector of water rates may deem requisite. (M. C., sec. 2338.)

Sec. 2470. Division of city into districts.—It shall be the duty of the assessor and collector of water rates to divide the city into as many districts and sub-districts as he may deem necessary. The boundaries of the districts and sub-districts may be changed at the discretion of said assessor and collector. All licenses for the use of water on premises within any sub-district shall be made payable on the same day. The assessor and collector may, however, where in his judgment it is essential for the protection of the revenue of the city, issue a license for a shorter period than six months. (M. C., sec. 2339.)

Sec. 2471. Rebate allowed for unexpired term of license.—If any consumer shall remove from the premises for which his license was issued, before the expiration of the same, he shall notify the assessor and collector of water rates thereof, who shall cause the water to be shut off the premises; thereupon the assessor and collector shall compute the unconsumed value of the license, which shall be in proportion that the unexpired term of his license bears to the full term for which the license was issued, and said amount shall be allowed as a payment on a subsequent license, or, at his option, shall be returned to the consumer holding said license. (M. C., sec. 2340.)

Sec. 2472. Allowances in case of fire.—Any water taker deprived of use of water by the destruction by fire of the premises for which the license was issued shall be entitled to have a valuation of his license made under the provisions of section 2471. (M. C., sec. 2341.)

Sec. 2473. Use of water by fire department.—The regularly constituted fire department of the city shall at all times have the liberty to use water for the purpose of cleaning, washing and testing the engines or other apparatus of the department. (M. C., sec. 2342.)

Sec. 2474. Abuse of water privileges—how punished—duty of police.—Any person having a water license, who shall use or suffer to be used, water from the premises designated in his license, for any other purpose than that specified therein, or shall suffer any person not licensed to use water from such premises, or who shall suffer any hydrant to remain exposed to public use, or shall suffer or permit any unnecessary waste of water therefrom, or shall negligently suffer the water to waste because of the plumbing or fixtures being out of repair or otherwise, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than fifty dollars. And it is hereby made the duty of all policemen to report to the assessor and collector of water rates any and all breaches of this section. (M. C., sec. 2343.)

Sec. 2475. Use of water without license—opening fire-plug—injuring water appurtenances—casting into reservoir—penalty.—Whoever shall himself, or by any of his family, agents or servants, use the water from the waterworks without license, or who shall without lawful authority open any fire-plug, stop-cock, valve or other fixture appertaining to said works, or who shall shut off or let on water, into or from any pipe, or shall injure, deface or impair any part, appurtenance of the waterworks, or shall throw or cast anything into the reservoirs of said works, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than fifty dollars. (M. C., sec. 2344.)

Sec. 2476. Premises must be enclosed.—In no case shall a license be issued to any one for the use of water until it shall have been ascertained from actual inspection that the premises are so inclosed as to prevent persons having no license from using water therefrom without the knowledge of the person to whom the license is granted. It shall be lawful for the assessor and collector of water rates to shut the water off from any premises not inclosed in conformity to this section. (M. C., sec. 2345.)

Sec. 2477. License to storekeeper—when.—A license may be issued to the owner or occupant of any store, shop or office that is connected with a dwelling for the use of water from any hydrant in the neighborhood, when the owner of such hydrant shall give written permission to do the same, said permit to be filed in the office of the assessor and collector of water rates. (M. C., sec. 2346.)

Sec. 2478. Licenses to residents—where water pipe not laid.—Persons residing on streets in which the water pipe has not been laid may obtain a license for the use of water upon producing the written permission of the owner of the hydrant from which it is proposed to take the water, said permit to be filed in the office of said assessor and collector. (M. C., sec. 2347.)

Sec. 2479. License—when may be withheld.—The assessor and collector of water rates is hereby authorized to withhold a license for the use of water from the waterworks when in his opinion such license cannot be granted without the liability and likelihood of water being used for other purposes than that for which the license is taken. (M. C., sec. 2348.)

Sec. 2480. Such license to cover all uses.—In all such cases as those mentioned in the previous section, the assessor and collector is authorized to require the applicant to take out a license for the use of water

for all purposes for which it is exposed to be used, and unless said applicant will do this, then said assessor and collector may refuse a license for the water for any other purpose. (M. C., sec. 2349.)

Sec. 2481. Same—when license may be revoked.—If a license shall be issued for the use of water upon any premises, and after said license has been issued and during the term for which it is issued, the assessor and collector shall become satisfied that water from said premises is used, or exposed to be used for purposes not contemplated by the license issued, then the assessor and collector may require the person to whom said license was issued to take out a license for the use of the water for the purpose for which, in the judgment of said assessor and collector, the water is exposed to be used, and in default of such license being taken out, the assessor and collector is authorized to revoke the license actually issued and stop off the water from such premises. (M. C., sec. 2350.)

Sec. 2482. License—non-payment or waste—water to be shut off.—The assessor and collector of water rates is hereby authorized to shut the water off from all premises and hydrants for the non-payment of licenses, or by the water commissioner, after notice, for allowing a willful waste of water within the buildings or premises for which a license to use water has been granted. (M. C., sec. 2351.)

Brewing Assn. vs. St. Louis, 140 Mo. 419, 423; Westlake vs. St. Louis, 77 Mo. 47; Brewing Assn. vs. St. Louis, 187 Mo. 367, 381.

Sec. 2483. When connection with main pipe to be cut off.—Whenever the assessor and collector of water rates causes the water to be shut off from any hydrant or premises, and the same shall be let on again without permission of said assessor and collector, the water commissioner shall, at the request of the assessor and collector of water rates, immediately cause the connection with the main pipe to be cut off. Any person procuring water from any hydrant or pipe that has been shut off by said assessor and collector, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than fifty dollars. (M. C., sec. 2352.)

Sec. 2484. License—oath of application for, may be required.—The assessor and collector of water rates may require of each applicant for water license a statement under oath at the time of application. (M. C., sec. 2353.)

Sec. 2485. Premises may be entered.—The assessor and collector of water rates and his duly authorized employes shall have free access at all reasonable hours to any premises where it may be necessary to ascertain the reading of meters, the location or condition of a water pipe or other fixture attached to the waterworks, or to shut off or to let on water from or to any hydrant, pipe or other attachment, or by the water commissioner for any other purpose that may be deemed essential for the preservation of the works, prevention of waste, or protection of the revenue from the waterworks. (M. C., sec. 2354.)

Sec. 2486. License—when water used for building purposes.—For all building purposes, where hydrant water is collected from street gutters and used, the regular license shall be paid, as though the water was taken direct from the waterworks. (M. C., sec. 2355.)

Sec. 2487. **License rates for water.**—The following rates for the use of water from the waterworks for one year are hereby established for residences occupied by one family only: House with three rooms or less, two dollars; house with four or five rooms, three dollars; house with six rooms, four dollars; house with seven rooms, five dollars; house with eight rooms, six dollars; house with nine rooms, seven dollars; house with ten rooms, eight dollars; house with eleven or twelve rooms, nine dollars; house with thirteen or fourteen rooms, ten dollars; house with fifteen or sixteen rooms, eleven dollars; house with seventeen or eighteen rooms, twelve dollars; house with nineteen or twenty rooms, thirteen dollars; house with more rooms to be assessed at fifty cents for each additional room; tenements, boarding houses, apartment houses, flats, hotels and residences occupied by more than one family, one dollar per room; each church, ten dollars; each club room, twenty dollars; each bath tub in private residence, tenements, apartment houses, flats, boarding houses and hotels, with or without heating apparatus, two dollars; each public bath tub, fifteen dollars; each water closet in hotel, ten dollars; all other water closets, three dollars each; each vault through which the water from a sink or hydrant is conducted, five dollars; each urinal basin in a private residence, ten dollars; all other urinal basins, twenty dollars; for sprinkling grass or washing pavements with hose, for a street frontage of twenty-five feet or less, one dollar per annum; and for every additional front foot above twenty-five feet, five cents per foot, provided payment in all cases shall be made for the entire frontage of the premises to be sprinkled; for hose for private stable, five dollars; for sprinkling streets with sprinkling cart, for that portion of the street embraced between two cross streets, where the same does not exceed three hundred linear feet, ten dollars; and where such portions exceed three hundred linear feet, the excess to be charged for in proportion at the same rate, or at the rate of three-fourths of a cent per hundred gallons of water used; for filling cisterns, six cents per one hundred gallons; for each fountain, twenty-five dollars, but no fountain attachment shall be greater than one-half inch, and no fountain shall be operated more than four hours per day. All licenses for sprinkling streets, sidewalks and gutters, and for fountains, shall date from the first day of April, and be for not less than one year. And any person holding a license for such purpose shall put in his own attachment, and shall keep the same in order and free from waste, and a failure so to do shall work a forfeiture of the license. For each perch of stone masonry, five cents; for every thousand of bricks laid in a wall, ten cents; for every square yard of plastering, one-half cent. Each person applying for a license for building purposes shall furnish a statement of the amount and kind of work to be done, which shall be sworn to and preserved in books provided for that purpose. And until meters are installed pursuant to section 2488, water used for business purposes with flats above, shall be paid for at the following rate: Each grocery store, ten dollars; each other store, shop or hall, not less than five dollars nor more than thirty dollars; each office, not less than five dollars nor more than thirty dollars; each dramshop, saloon, beer house, ale cellar, porter cellar, wine cellar and restaurant, from twenty dollars to one hundred dollars, but no additional charge shall be made on any dramshop, saloon or beer house license for billiard or pool table where only one such table is used; for each tenpin alley, three dollars; for each ice cream saloon, coffee saloon, oyster saloon, confectionery and candy manufactory, from fifteen dollars to one hundred dollars; bakeries, for each oven, not less than ten dollars nor more than fifty dollars; barber shops, for the first chair, five dollars; for each additional chair, two dollars; for every billiard or pool table, three dollars; for each book bindery and printing office, two dollars for each hand employed, but

no license less than fifteen dollars; each photograph gallery not less than twenty dollars nor more than fifty dollars; each cigar and tobacco manufactory, for each person employed therein, two dollars, but no license shall be issued for less than ten dollars; for each dyeing and scouring establishment, twenty-five dollars; for laundry with three hands or less, twenty dollars; for each additional hand above three, five dollars; each hat factory, twenty dollars; each laboratory, twenty-five dollars; each soda manufactory, fifty dollars; each starch manufactory, fifty dollars; each tannery, per vat, six dollars, but no license less than twenty-five dollars; for each livery and sales stable, two dollars per stall, but no license less than twenty-five dollars; in addition to the horse license required, for each horse for livery or sales stable, fifty dollars; horse for dairy, twenty dollars; each horse and mule, three dollars; each cow, one dollar; each automobile, carriage and buggy, two dollars; each spring wagon, two dollars, except in livery stables where no charge for vehicles shall be made; for washing meat, not less than twenty dollars; for washing bottles, twenty-five dollars; brick yards, for each gang of hands, twenty dollars; for each forge, three dollars; schools, for each scholar, five cents; foundries and blacksmith shops, for each fire, three dollars; for each steam boiler, a water rate of forty cents per square foot of fire surface shall be charged, the fire surface to be computed by the area of the boiler and flues exposed to the fire. A statement of the dimensions and construction of each boiler shall be filed by the applicant at the time of his application with the assessor and collector of water rates. A proportionate allowance shall be made on such boilers as are used only a portion of the time, to be ascertained by the affidavit giving a detailed statement of the actual running time. Gas engines, three dollars per horse power. In all manufacturing establishments, the assessor and collector of water rates, in computing the amount of license, shall be governed by the number of hands actually employed therein, and charge at a rate not exceeding two dollars per hand. For the use of water for any purpose not herein specifically designated and not paid for at meter rates, not less than ten dollars nor more than one thousand dollars shall be charged, the same to be fixed by the assessor and collector of water rates. Wherever there is in a single store or room more than one business carried on subject to special rates, the person paying the highest rate shall be assessed in full, and the other subjects shall be assessed at half rates. In assessing the foregoing rates, all licenses shall be figured to the nearest fifty cents. (Ord. 22353, sec. 2356, amending ord. 21913.)

This ordinance is again amended by ord. 23085, approved June 27, 1907. Before this Revised Code, ord. 21913, amended ord. 20849, the latter 20650, and that had amended 20556, which amended M. C., sec. 2356.

Sec. 2488. Water meter rates—when permitted—amounts—water meters and rates therefor.—Water furnished to residences and premises occupied for business purposes with flats above, may be paid for at meter rate, at the option of the person requiring use of water and applying for a meter, or at the option of the assessor and collector of water rates, who shall have power to ascertain by meter measurement the quantity of water used, and exact payment therefor at meter rates, and in either case the rates fixed at license rates shall not apply. Water furnished to all other connections must be paid for at meter rates, and in all cases where the water is to be paid at meter rates the person or corporation taking out license shall be charged the following rates on the average quantity of water used during the year, the year to be estimated at three hundred days. When the quantity used averages one thousand gallons per day or less, twenty-five cents per one thousand gallons. When the quantity used averages from one thousand to twenty-five hundred gallons per day, twenty

cents per one thousand gallons. When the quantity used averages from twenty-five hundred to five thousand gallons per day, fifteen cents per one thousand gallons. When the quantity used averages from five thousand to ten thousand gallons per day, thirteen cents per one thousand gallons. When the quantity used averages from ten to twenty-five thousand gallons per day, eleven cents per one thousand gallons. When the quantity used exceeds twenty-five thousand gallons per day, eight cents per one thousand gallons. The meter rate for the use of water from the waterworks for purely manufacturing purposes, is hereby fixed at eight cents per one thousand gallons. (Ord. 21913, amending M. C., sec. 2357.)

Sec. 2357 of M. C. was also amended by ord. 21523, by adding a proviso that for World's Fair and Centennial Expositions held under provisions of R. S. 1899, Art. 18, Ch. 12, which use during such period of exposition more than seventy-five million gallons, the rate is one cent per thousand gallons. As to breweries, etc., paying at rate of one cent per hundred gallons when using over fifty million gallons annually, etc., and recovering back excessive payments, see *Brewing Co. vs. St. Louis*, 187 Mo. 367; *Brewing Co. vs. St. Louis*, 140 Mo. 428. See also, *Westlake vs. St. Louis*, 77 Mo. 47.

As to *Public Baths* getting its water free of charge, see R. C., Chapter 22A and notes to heading; also R. C., secs. 1802-1804.

Sec. 2489. Fractional parts of meter rates.—In assessing and collecting the rates established in sections 2487 and 2488, no license shall be issued in fractions of less than a half-dollar, and in all cases where the fraction is twenty-five cents or less the same shall be dropped, and where the fraction exceeds twenty-five cents it shall be increased to make the half-dollar amount; for example, if a license figured at the rates established in sections 2487 and 2488 shall amount to one dollar and twenty-five cents, it shall be one dollar, and if one dollar and twenty-six cents it shall be one dollar and fifty cents, and if one dollar and seventy-five cents, then one dollar and fifty cents, and if one dollar and seventy-six cents, then two dollars. (Ord. 20605, adding sec. 2357A to M. C.)

Sec. 2490. Tenement and boarding houses defined.—Tenement houses within the meaning of this article are defined to be houses subdivided into suites or rooms and rented to families or individuals. Boarding-houses are defined to be houses advertised by placards or otherwise as boarding or lodging houses, or where the furnishing of board or lodging is pursued as a business. (M. C., sec. 2358.)

Sec. 2491. Stop-box—when broken must be replaced.—Whenever the assessor and collector of water rates shall find that the stop-box controlling the supply to any premises is broken or not in a serviceable condition, he shall notify the owner or occupant of the premises that a new box is required, and the assessor and collector shall refuse to grant a license for such premises until a new and sufficient box is duly set. (M. C., sec. 2359.)

Sec. 2492. "Gallon" defined.—The term "gallon" used throughout this article shall mean two-fifteenths of one cubic foot. (Ord. 21913, amending M. C., sec. 2360.)

Sec. 2493. Present schedule—when goes into effect.—The schedule of rates as specified in sections 2487 and 2488 shall be operative as and when the licenses now in force expire, and as when the licenses in the districts in which the premises are affected are located fall due next

succeeding the approval of this ordinance, but no rebates shall be paid on account of any license paid in advance or prior to the passage of this ordinance. (Ord. 21913, adding sec. 2360A to M. C.)

Sec. 2494. Meters may be placed in public institutions.—The assessor and collector of water rates shall, in his discretion, cause meters to be placed on all or any of the public institutions, buildings, parks, or other public places where water is used from the waterworks, to ascertain the average amount of the consumption of water daily at each, and shall furnish monthly statements thereof, for the information of the mayor and municipal assembly. (M. C., sec. 2361.)

Sec. 2495. Meters—only one connection with main allowed.—Whenever the assessor and collector of water rates shall determine to place a water meter upon any premises, and the said premises are supplied by more than one connection with the city mains, he shall notify the owner or occupier of said premises to at once cause his plumbing to be so reconstructed as to permit a supply to be furnished from one connection only with the main; and if the owner or occupier of the premises, after such notice, shall fail to make the required change, the assessor and collector of water rates shall refuse to renew the license upon said premises until the required change is made. (M. C., sec. 2362.)

Sec. 2496. Rates for hospitals, etc.—assessed half rates.—Hospitals, orphan asylums and charitable institutions shall be assessed at one-half the rates as provided for residences occupied by one family only. (M. C., sec. 2363.)

Sec. 2497. Rates for public schools.—The assessor and collector of water rates is hereby authorized and empowered to issue licenses to the board of education of the City of St. Louis for the use of water by it and for its purposes in the public schools, at a rate of two and one-half cents per one hundred cubic feet and upon the same terms and conditions and subject to all of the rules, regulations and restrictions now or hereafter imposed by ordinance upon users of water within the City of St. Louis. (Ord. 20727.)

Sec. 2498. B. P. I. to procure water meters.—The board of public improvements is hereby authorized and directed to procure water meters to be used in measuring water furnished to consumers by the St. Louis Water Works. The cost of the same shall be paid by the City of St. Louis. (Ord. 22138.)

The ordinance appropriates \$100,000 therefor; ord. 21603 is identical with it, except that it appropriates \$50,000.

Sec. 2499. Rates to government.—The assessor and collector of water rates is hereby authorized and empowered to issue licenses to the United States Government for the use of water by it and for its purposes from the city waterworks, at a rate of five and one-half cents per one hundred cubic feet and upon the same terms and conditions and subject to all of the rules, regulations and restrictions now or hereafter imposed by ordinance upon users of water within the City of St. Louis. (Ord. 20535.)

Sec 2500. Same—meters at Jefferson Barracks.—All water so furnished for use at Jefferson Barracks shall pass through meters to be placed by the City of St. Louis at convenient points within the city limits. (*Ib.*, sec. 2.)

Sec. 2501. **Same—pipe connections.**—The water commissioner is hereby authorized to make the necessary pipe connections within the city limits, with the city water mains or pipes and to place meters upon such connections. (*Ib.*, sec. 3.)

Sec. 2502. **Same—reservation of rights to city.**—The City of St. Louis reserves the right to alter, amend or repeal the preceding three sections at any time. (*Ib.*, sec. 4.)

Sec. 2503. **Penalty for violating article.**—For any violation of the provisions of this article, for which a special penalty is not hereinbefore provided, the offender shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than three nor more than one hundred dollars, to be recovered before the police justice as in other cases of violation of ordinance. (M. C., sec. 2364.)

CHAPTER 39.

OF WATER WORKS.*

- ART. I. Attachment with water pipes.
 II. Water works bonds.

ARTICLE I.

ATTACHMENT WITH WATER PIPES.

Sec. 2504. **Persons making attachment, etc., required to give bond.**—No person, firm or corporation shall make any attachment or connection with the pipes of the St. Louis waterworks, nor make any repairs, additions to, or alterations of, any pipe or fixture connected therewith unless he or they shall have given the bond required to be given by plumbers. (M. C., sec. 2365.)

Plumber's bond, see R. C., 1794. As to Charter authority in city to regulate connections and require permit, see Art. VI, sec. 13.

Sec. 2505. **Bonded plumber to procure permit.**—Any bonded plumber desirous of introducing water from the waterworks to any premises, or of making any repairs, additions to, or alterations of, any pipe or fixture supplied with water from the waterworks, shall first procure a permit from the water commissioner. (M. C., sec. 2366.)

Sec. 2506. **Applications to be written—what to contain.**—All applications for permits must be in writing upon blank forms furnished by the water commissioner. The application shall state the location of the premises, the full name of the owner of the property, the several and various uses for which water is wanted and such other information pertaining to the subject as the water commissioner may require. (M. C., sec. 2367.)

*Charter provisions as to water-works and water pipes: Charter, Art. I, sec. 1; Art. III, sec. 26, clause 2; Art. VI, secs. 2, 13, and especially Art. VII, secs. 1-13, with notes.

For ordinance regulations concerning plumbing and draining in general, see R. C., secs. 1787-1801 of Art. IV, Chapter 22. The Charter requires the assembly to provide that connections with water or gas pipes shall be subject to such regulations as B. P. I. may provide, and that a permit shall be required to make such connection: Art. VI, sec. 13.

For ordinances providing sinking fund to pay water bonds, see sec. 2528, and Charter provisions on same, see Art. VII, sec. 11.

Sec. 2507. **Permit—when issued.**—A permit for making an attachment to the water mains, or additions, alterations or repairs of pipe supplied with water from the waterworks will be issued by the water commissioner upon presentation of a certificate of the supervisor of plumbing, stating that the proposed work is approved by him, and another certificate signed by the assessor and collector of water rates, stating that the cost of the tap and the sum of two dollars, for inserting the tap in the water main, has been paid. Permits for attachments to private pipe will be granted only when the written consent of the owner of the pipe is filed with the water commissioner. (M. C., sec. 2368.)

Sec. 2508. **Permits—when not to be granted.**—Permits for attachments for building purposes will not be granted until the building license has been paid to the assessor and collector of water rates. Permits for attachments will not be granted when the service pipe passes over or through premises, which at the time or may thereafter become the property of persons other than the owner of the premises to be supplied by such attachments. Permits for attachment to private pipe will not be granted if there be a main pipe either in front or rear of the premises to be supplied. Permits for connections for fountains, stand-pipes or pipes for fire protection shall not be granted unless the water is taken on the premises for other than fire purposes. Permits for attachments for public fountains shall not be granted until the pattern of the fountain to be used shall be approved by the board of public improvements. (M. C., sec. 2369.)

Sec. 2509. **Taps to be furnished by water commissioner—what tapping permitted.**—No tap shall be used except such as is furnished by the water commissioner, and no person except the tapper employed by the water commissioner shall, under any circumstances, tap the distribution pipes or insert taps therein. No tap shall be inserted in a pipe of greater internal diameter than twenty inches, except by special permission of the water commissioner indorsed on the permit. (M. C., sec. 2370.)

Sec. 2510. **Service pipe, repair of—failure to repair—water shut off—failure to repay when repaired by city—penalty.**—Whenever any service pipe or attachment to same, leading to any premises is out of repair, and the owner of such premises or his agent, or the occupant thereof, refuses or neglects to repair the same at once, after notice from the water commissioner, the necessary repairs shall be made or the water shall be shut off by the water commissioner; and in case of repairs requiring prompt attention, the repairs shall be made or the water shall be shut off by the water commissioner without such notice. A bill for the cost of the work done and material furnished by the water commissioner shall be presented to such owner, agent or occupant, and in case of failure to pay the same within ten days after presentation of said bill, the assessor and collector of water rates shall be notified, and upon receiving such notification, he shall immediately cause the water to be shut off and may withdraw the tap, or cut off the attachment from main pipe, and no further license for water to be used on or at said premises shall be issued until the cost incurred in making repairs and disconnecting the attachment have been paid to the assessor and collector of water rates. (Ord. 21587, adding sec. 2370a to M. C.)

Sec. 2511. **Taps—regulations of.**—Taps shall be inserted at least six feet within the lines of the building to be supplied therefrom. No more than one building shall be supplied from one tap except where there is no

main pipe either in front or in the rear of the premises to be supplied. In case a tap larger than three-fourths of an inch be requested for private residence, the party desiring such tap will be required to place a water meter upon his attachment at his own expense. When an increase in supply is wanted, the tap or taps in use must be drawn and the main plugged at the expense of the party desiring the increased supply before the new tap is inserted in the water main. When service pipes are abandoned, of which fact the water commissioner shall be judge, the taps to which said abandoned pipes are connected shall be drawn and the main pipe plugged. Taps inserted for building purposes will be drawn by the water commissioner when the building is completed, unless it be intended to extend the pipe for the supply of the premises, in which case application must be made in the usual manner. (M. C., sec. 2371.)

Sec. 2512. Notice to be given of price of taps.—Whenever the price of taps has been determined by the water commissioner, said water commissioner shall notify the comptroller and auditor thereof. (M. C., sec. 2372.)

Sec. 2513. Attachment—when to be cut off.—Whenever the shutting off of the water from any attachment cannot be accomplished or maintained in the ordinary manner, and the party or parties owning the service pipe refuse or neglect to repair the same at once, the water commissioner when informed that said shut-off cannot be made, will draw the tap or cut off the attachment from the main pipe, and no permit shall be granted to reconnect said attachment until the cost incurred in disconnecting the same has been paid to the assessor and collector of water rates. (M. C., sec. 2373.)

Sec. 2514. Service pipes—how laid—material of.—All service pipe placed in connection with the waterworks shall be made of lead, except in cases where the water commissioner may grant otherwise. The pipe shall be laid four feet below the surface of the ground, and sufficiently waving to allow an extra length of one and one-half feet and in such a manner as to prevent rupture by settlement. Said pipe shall be of the class known as “extra strong” and shall weigh per lineal foot for various diameters as follows:

Size of Tap—

- One-half inch.
- Five-eighths inch.
- Three-fourths inch.
- One inch.
- One one-fourth inch.
- One one-half inch.

Diameter Pipe—

- Five-eighths inch.
- Three-fourths inch.
- One inch.
- One one-fourth inch.
- One one-half inch.
- One three-fourths inch.
- Two inch.
- Two one-half inch.

Weight per foot—

- Three pounds.

Three pounds ten ounces.
Four pounds twelve ounces.
Six pounds.
Seven pounds two ounces.
Eight pounds four ounces.
Nine pounds four ounces.
Sixteen pounds twelve ounces.

The service pipe used for interior plumbing (that is, all inside the premises) may be of the class known as "strong" lead pipe, but no pipe of lighter weight than this shall, under any circumstances, be used. The weight of this class of pipe shall be as follows:

Diameter of Pipe—

Five-eighths inch.
Three-fourths inch.
One inch.
One one-fourth inch.
One one-half inch.
One three-fourths inch.
Two inch.

Weight per lineal foot—

Two pounds eight ounces.
Three pounds.
Four pounds.
Four pounds eight ounces.
Six pounds four ounces.
Six pounds eight ounces.
Eight pounds.

Service pipes must be laid under the building or in a lot clear of the building, and within three feet of the sidewalk, thereof. No service pipe shall be permitted to be laid in a sewer trench or within eighteen inches alongside of said trench, except by special permission of the water commissioner indorsed on the permit. No pipe of less diameter than five-eighths of an inch will be permitted to be placed under ground in connection with the waterworks. Temporary service pipes and pipes laid to supply premises where there is no water main in front of the premises shall be removed, and connections made to the water main as soon as it is laid in front of the premises. (M. C., sec. 2374.)

Sec. 2515. Stop cocks—how made—where placed.—There shall be a stop-cock placed on every attachment to the waterworks. In streets it shall be placed under the sidewalk within one foot of the curbstone, and in alleys it shall be within one foot of the side line of the same. All stop-cocks, without exception, shall have a strong and suitable "T" head. They shall be placed immediately in front of the premises to be supplied, and shall be inclosed in an iron stop-box coming up even with the surface of the pavement. When a service pipe is laid in a street or alley a greater distance than fifty feet before it enters the premises to be supplied, there shall be two stop-cocks placed upon said pipe; one as near the water main as the water commissioner shall require, and one in the sidewalk or alley immediately in front of the premises. When a service pipe is laid along the street, before it enters the premises to be supplied, it shall be laid in the street clear of the gutter, and within four feet of the curbstone. In cases where several buildings are supplied from one tap there shall be a stop-

cock and box located near the water main, and also a stop-cock and box controlling the water supply to each house independently. (M. C., sec. 2375.)

Sec. 2516. Street washers—regulations of.—Street washers, when placed in connection with the pipes supplying the premises, shall be controlled by a stop-cock and box, so arranged as to admit of the water being turned off from the street washer without interfering with the supply for the building. No street washer shall be used until the pattern of the same shall have been approved by the board of public improvements. (M. C., sec. 2376.)

Sec. 2517. Service pipe for building purposes.—When an attachment is made to supply water for building purposes, the service pipe shall be carried to the inside of the curbstone and a regular stop-cock and box shall be set; in addition to the regular stop-cock and box, there shall be furnished and set for the use of the builder a street washer so arranged as to operate with a key. (M. C., sec. 2377.)

Sec. 2518. Supply pipes—stop cock for, where placed.—There shall be a stop and waste cock attached to every supply pipe at the point where it enters the building, and so arranged and maintained as to admit of the water being shut off and the pipes in the building drained. (M. C., sec. 2378.)

Sec. 2519. Service pipes—stop-boxes on.—All stop-boxes used on service pipes connected with the waterworks shall be of iron, and shall be so made as to be adjustable in length, and of a diameter at the smallest point of not less than four inches. No pattern of stop-box shall be used until the same shall have been approved by the board of public improvements. (M. C., sec. 2379.)

Sec. 2520. New work—duty of plumber.—When the plumbing work in connection with any new attachment, or in any new building, has been completed and tested, it shall be the duty of the plumber to shut off the water. When a shut-off for the purpose of repair cannot be made in the usual manner and it is desired to have the water turned off from the main pipes, the plumber desiring such shut-off will be required to pay the assessor and collector of water rates the sum of two dollars to cover the cost of the shut-off. (M. C., sec. 2380.)

Sec. 2521. Plumbing work to comply with the rules of board of public improvements.—No pipe fixture or appurtenance of any kind whatsoever shall be used in connection with the plumbing of any premises until the pattern of the same shall have been approved by the board of public improvements. All plumbing work shall be done in accordance with the rules and regulations of the board of public improvements, and shall be subject to the inspection of the supervisor of plumbing, and no work shall be covered up or regularly supplied with water from the waterworks until examined and approved by him or his duly authorized agent. (M. C., sec. 2381.)

Sec. 2522. Elevators and large connections—regulations for.—All elevator, motor or other large connections, in addition to the stop-valve in the street must be supplied with another valve, for the use of

the occupants, where the pipe first enters the building. Parties desiring attachments for supplying water to elevators, motors, fire pipes, or other large connections, shall file an application with the water commissioner stating such information pertaining to the subject as he may require. Such attachment will be made by the water commissioner at the cost of the party desiring the attachment when, in his opinion, the attachment or the use thereof will not interfere with or endanger the water supply to buildings in the immediate vicinity. Air chambers of sufficient capacity to prevent excessive ramming shall be placed on all connections supplying hydraulic elevators. Connections for furnishing water for fire purposes shall not be used for any other purpose unless a water meter is placed thereon by the parties desiring the water. (M. C., sec. 2382.)

Sec. 2523. Stand-pipes—to be provided with valves.—Stand-pipes and pipes intended for fire protection, for which no charge is made for the use of water for extinguishing fires, must be provided with a suitable valve where the pipe enters the building; it shall be sealed by the water commissioner. In case such seal shall be broken for the extinguishment of any fire the party shall immediately give notice to the water commissioner, and no seal shall be broken for any other purpose or use, or any tap introduced into or connection made with said stand-pipe or pipe for fire protection. (M. C., sec. 2383.)

Sec. 2524. Plumbers—to make weekly returns.—It shall be the duty of all persons, firms or corporations carrying on the plumbing business in the City of St. Louis to make weekly returns to the assessor and collector of water rates of all alterations of or additions to plumbing work made by them during the previous week. The returns shall state the nature of the additions or alterations and such other particulars necessary to a full understanding of the subject as the assessor and collector of water rates may require. (M. C., sec. 2384.)

Sec. 2525. Plumbers—names not to be used by others—must turn off water after testing.—No person, firm or corporation carrying on the plumbing business shall allow his or their name to be used by any person, directly or indirectly, either to obtain a permit or permits, or to do any work under his or their bond, or make any misrepresentations or omissions in weekly returns or leave the water turned on after completing and testing the plumbing. (M. C., sec. 2385.)

Sec. 2526. Tap—permit not to be issued—when.—When a fine shall have been imposed upon any person, firm or corporation carrying on the plumbing business, or his or their bond or certificate shall have been forfeited, suspended or canceled, the water commissioner shall refuse to issue any tap permit to such person, firm or corporation until such fine has been paid, or until such bond or certificate has been duly renewed by the proper officer or department. (M. C., sec. 2386.)

Sec. 2527. Penalty.—Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than two hundred dollars, to be recovered to the use of the city, before any court or officer having competent jurisdiction. (M. C., sec. 2387.)

ARTICLE II.

WATER WORKS BONDS.*

Sec. 2528. Sinking fund for "St. Louis water bonds."—In conformity with the requirements of section eleven of Article seven of the Charter of the City of St. Louis, there is hereby set apart annually out of the whole net income realized from rents and receipts of the waterworks in excess of what may be necessary for completing, constructing, operating and repairing the waterworks, and for interest on the water bonds, the sum of three hundred thousand dollars as a sinking fund solemnly appropriated to and for the payment of the bonds issued for the erection of the waterworks, denominated "St. Louis water bonds," and shall be applied solely to that purpose until the whole of said bonds be fully paid. (Ord. 21475, sec. 1.)

Sec. 2529. Same—how invested.—The board of fund commissioners is hereby empowered and directed to invest the assets of the sinking fund, as created by the provisions of the preceding section, in the manner provided for in section eleven of Article seven of the charter, that is to say, in St. Louis water bonds, if the same can be done advantageously, and if not, in other bonds of the City of St. Louis; and if none such are procurable, then in bonds of the State of Missouri, or the United States. (Ord. 21475, sec. 2.)

Sec. 2530. Fund to meet interest.—In addition to the amount set aside from water works revenue for sinking fund purposes, there is hereby appropriated and set aside annually in conformity with the requirements of the charter, a sufficient amount to meet the interest maturing on the bonds due for the erection of the waterworks and denominated "St. Louis water bonds." (*Ib.*, sec. 3.)

CHAPTER 40.**

WEIGHTS AND MEASURES—DEPARTMENT OF.

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| ART. | I. Of inspector. |
| | II. Of weights and measures. |
| | III. Of public scales. |
| | IV. Of city weighers. |
| | V. Of lumber measurers. |

*Charter, Art. VII, secs. 11, 13.

**Charter authority to regulate the standard of weights and measures, and inspection, etc.: Chart., Art. III, sec. 26, clause 7; Art. IV, sec. 30.

Where under a municipal charter, the power to regulate weights is incident to and part of the grant to regulate markets, it is strictly a police power; it cannot be exercised for revenue purposes: *Lamar vs. Weidman*, 57 Mo. App. 507, 513.

The ordinance of St. Louis requiring coal dealers to furnish certificates to the consumers is valid under the charter authorizing provisions for weighing coal; and the provision in the Charter "to regulate retailers" of coal authorizes a charge for such certificates: *Sylvester Coal Co. vs. St. Louis*, 130 Mo. 323. See where similar ordinances were upheld: *St. Charles vs. Elsner*, 155 Mo. 671. See also *St. Louis vs. Priesmeyer*, 12 Mo. App. 592 (memo. opin.), and as to State law, see *State ex rel. vs. Goffee*, 192 Mo. 670.

ARTICLE I.

OF INSPECTOR.

Sec. 2531. Duties and powers of inspector.—It shall be the duty of the inspector of weights and measures twice in every year to examine and test the accuracy of all weights, measures, scales or other things used for weighing or measuring any article for sale, or which may be used in such manner that the accuracy of them may pecuniarily interest any other citizen than the owner, to stamp with a suitable seal, to be prescribed by the mayor, each weight, measure, scale or other thing so used, which he may find to conform, or which shall be made to conform, to the standard prescribed by the laws of the United States, or of this state, and deliver to the owner thereof a certificate of their accuracy; to seize in the name of the city all false weights, measures and scales which he may find, and which the owner shall fail to have immediately made conformable to said laws. He shall keep a record of all scales and measures inspected by him, specifying date, place of inspection, and the names of the parties for whom the inspection was made, and of all persons who fail to have the same corrected when not so found, and to report such person or persons to a police justice; to report at least once a month to the comptroller the names of the persons and the number of weights, measures and scales examined and found by him to be accurate, and shall make a daily report of the amount of fees collected by him, and pay the same daily into the city treasury, taking the treasurer's receipt in triplicate therefor, and filing one with the comptroller, and one with the auditor, and to inspect and test any of the public scales of the city when requested by the weighers thereof. (M. C., sec. 2388.)

Charter provisions affecting Inspector: Charter, Art. III, sec. 26, clause 7; Art. IV, secs. 30, 47. See preceding note.

Sec. 2532. Weights and measures open to inspection—penalty for attempt at concealment.—All weights, measures, scales or other things used in the manner prescribed in section 2531 shall be subject to inspection as hereinafter provided, on and after the first Monday in January, and a second or subsequent inspection on or after the first Monday in July of each year without regard to date of any preceding certificate. Persons who for the purpose of avoiding inspection, conceal or attempt to conceal scales, weights, or measures, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined as provided in section 2548. (M. C., sec. 2389.)

Sec. 2533. Persons using weights, etc., to cause them to be examined, etc.—penalty.—All persons using weights, measures, scales or other things in the manner prescribed by section 2531, shall cause the same to be examined, tested and sealed as hereinbefore required; and no such weights, measures, scales or other things so used, shall be deemed inspected, tested or sealed until the owner or owners thereof shall have paid for and obtained a proper certificate or certificates from the inspector of weights and measures, and the owner or owners or party in charge shall post said certificate or certificates on the scale or in some conspicuous place adjacent thereto; and on failure to do so, shall be liable to arrest and fine as provided in section 2548. (M. C., sec. 2390.)

Sec. 2534. Articles requisite—how purchased—supplies.—The commissioner of supplies is authorized, upon the requisition of the inspector of weights and measures, to purchase such scales, measures, instru-

ments and utensils as may be requisite for the efficiency of the office of the inspector of weights and measures, to be kept there as city property for the uses of his office, and to be turned over by him to his successor in office whenever required to do so on taking a receipt therefor, which receipt shall be filed with the register before being discharged from his bond. (M. C., sec. 2391.)

Sec. 2535. Dry measure—standard of.—All substances other than liquids, when sold by measure shall be sold by dry measure according to the standard established by law. (M. C., sec. 2392.)

Sec. 2536. Evidence of use of measures—penalty for false measures.—The proximity of all weights, measures, scales or other things used for weighing or measuring, to goods, wares or other articles exposed for sale, shall be evidence of their use, and the inspector shall arrest, or cause to be arrested, any person or persons using in the manner provided in this article, such weights, measures, scales or other things, and confiscate all false measures which are not in accordance with the standard prescribed by the laws of the United States or of this state, and every such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined as provided in section 2548. (M. C., sec. 2393.)

Sec. 2537. What deemed yard sticks.—The inspector of weights and measures shall consider all yard measures or devices of any kind used for measuring goods, as yard sticks, and exact a like fee therefor, and the inspector's certificate shall be given only on the receipt of the fees established by this article. (M. C., sec. 2394.)

Sec. 2538. Fees of inspection—false measures—penalty for frauds.—The inspector of weights and measures shall charge for examining, testing, sealing and certifying as herein required, as follows, viz.: Any steel yard, beam, ground, floor, platform, counter or other scale upon which may be weighed less than six hundred pounds, twenty-five cents each; any such instrument upon which may be weighed six hundred pounds or over, and under twelve hundred pounds, fifty cents each. Any such instrument by which may be weighed twelve hundred pounds or over and under twenty-five hundred pounds, seventy-five cents each. Any such instrument by which may be weighed twenty-five hundred pounds or over and under four thousand pounds, one dollar each. Any store, wagon, depot, hopper, hog, stock, hay, coal or other scales, by whatsoever name known or called, upon which may be weighed four thousand pounds or over, two dollars each. Any track scale, or scale used for weighing railroad cars, five dollars each. One set of weights shall, as to the compensation of the inspector of weights and measures, be considered a part of the scale; any additional weight or set of weights shall be charged for at the rate of twenty cents per set. Any yard stick or yard measure, ten cents each. Any dry or liquid measure (not in sets), five cents each. Any nest or set of measures, twenty cents per nest or set. Measures containing more than one gallon, five cents per gallon shall be charged, for every additional gallon which the measure contains. All charcoal measures, fifteen cents each. Any person or persons detected in altering or changing any weights or measures so as to measure more or less than the quantity or weight certified to upon said weight or measure, shall be deemed guilty of a misdemeanor. Any person or persons using weights or measures, which weights or measures have not been stamped as correct by the inspector, shall be deemed guilty of a misde-

meanor. Any person or persons convicted of a misdemeanor under this section shall be fined in the sum of not less than five nor more than one hundred dollars. (M. C., sec. 2395.)

Sec. 2539. Inspection—fees for subsequent.—The inspector of weights and measures shall, for a second or subsequent inspection of weights, measures, scales or other things used as prescribed in section 2531, charge and receive the same fees as for a first inspection specified in this article. (M. C., sec. 2396.)

Sec. 2540. Fees for inspecting hay and coal scales.—The inspector shall charge for inspecting and testing the several scales of the city, for the weighing of hay and stone coal, two dollars for each inspection, and for each platform scale in the use of the city, two dollars per year, and the auditor shall audit such account, charging the same to appropriation for scales. (M. C., sec. 2397.)

Sec. 2541. Duty of comptroller—duty of inspector—penalty for failure.—The comptroller shall deliver to the inspector of weights and measures blank certificates or tickets embracing a license clause with the amount specified therein, charging him therewith, and he shall account for the same in the same manner as other officers engaged in the collection of the city's revenue. The inspector shall deliver to every person from whom he receives a fee, certificates or tickets duly signed and authenticated, stating the article or articles inspected and the fee received therefor, and shall make a faithful return for the same as hereinbefore directed. For any failure to comply with the provisions of this section, he shall be immediately suspended by the mayor, and the facts causing the suspension reported to the council for their consideration. (M. C., sec. 2398.)

Sec. 2542. Bond of inspector.—The inspector of weights and measures shall file with the register his penal bond, with two or more good and sufficient sureties, owners of unincumbered real estate in the city, in the sum of five thousand dollars, to be approved by the mayor and council, for the faithful discharge of his duties, and for the payment into the city treasury of all fees and other moneys collected by him belonging to the city. (M. C., sec. 2399.)

Sec. 2543. Assistants and clerks—salaries—duties.—The inspector of weights and measures shall employ, with the consent and approval of the mayor, five suitable and competent persons as assistants, one of whom shall be a practical scale maker, and one suitable and competent person as clerk, who shall receive compensation for their services as follows, to-wit: First assistant, fifteen hundred dollars per annum, payable monthly; one second assistant, one thousand dollars per annum, payable monthly; two second assistants, nine hundred dollars per annum, payable monthly; one third assistant, six hundred dollars per annum, payable monthly; one clerk, one thousand dollars per annum, payable monthly, on the certificates of the inspector of weights and measures, out of the appropriation for salaries. The said assistants and clerk shall be under the direction and control of the inspector of weights and measures and shall perform such duties as the said inspector of weights and measures shall direct and he may, whenever in his opinion the interests of the city shall be sub-

served thereby, dismiss any of said assistants or clerk and appoint others in their stead, with the approval of the mayor. (Ord. 21499, amending M. C., sec. 2400.)

Sec. 2544. Salary of inspector.—The inspector of weights and measures shall receive from the city as compensation for his services the sum of three thousand dollars per annum, payable monthly. (M. C., sec. 2401.)

Sec. 2545. City to furnish horses and wagons.—For the use of the inspection department the city shall supply and furnish, and provide for the keeping thereof, all horses and wagons necessary for the efficient administration of the business of the department. (M. C., sec. 2402.)

Sec. 2546. Dairymen, hawkers, etc.—duties of—penalty for violation.—All dairymen, hawkers, peddlers, junk or rag dealers, who have no regularly established place of business, using scales, weights or measures, or other things to weigh or measure by, shall have the same inspected and tested by the inspector of weights and measures, at his office in the city hall, between the hours of nine and eleven a. m. Any [all] dairymen, hawkers, peddlers, junk and rag dealers, who fail to comply with this section, shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five nor more than ten dollars. (M. C., sec. 2403.)

Sec. 2547. Standard bushel box established—sale in violation—penalty.—There is hereby established a standard bushel box, the dimensions of which shall be as follows: Length, twenty-three and one-fourth inches; depth, nine and three-fourths inches, and width, eleven inches, inside measurement. The dimensions of fractional parts of a standard bushel shall be as follows: A half-bushel—diameter, twelve and one-half inches; depth eight and thirteen-sixteenths inches; a quarter bushel—diameter ten and five-sixteenths inches, depth six and three-eighths inches; a one-eighth bushel—diameter seven and fifteen-sixteenth inches, depth five and three-eighths inches; a one-sixteenth bushel—diameter six and one-quarter inches, depth four and five-sixteenths inches; a one-thirty-second bushel—diameter five and one-fourth inches, depth three and one-sixteenth inches. All bushel boxes and all fractional parts thereof shall be of the foregoing dimensions and shall be used only for selling and buying fruits and vegetables. Any person offering for sale such fruits and vegetables in boxes shall have such boxes inspected and sealed once each year, and the fee for such inspection shall be ten cents for each box. The inspector of weights and measures shall refuse to stamp as a bushel box any box not conforming to the requirements of this section. Any person or persons using boxes for the purpose of selling any fruit or vegetables of other dimensions that is likely to deceive or who does not have the same made to conform to the prescribed standard, after having been notified to do so, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than five dollars nor more than twenty-five dollars. (M. C., sec. 2404.)

Sec. 2548. Penalty.—Any person who shall violate or fail to comply with the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than five dollars nor more than one hundred dollars. (M. C., sec. 2405.)

ARTICLE II.

OF WEIGHTS AND MEASURES.

Sec. 2549. **Standard weights of various articles.**—The following grains and other articles when sold as merchandise in the City of St. Louis, and when sold by the bushel, shall be considered as sold at the following number of pounds, avoirdupois, to the bushel, namely: Wheat, beans (except castor beans), clover seed, potatoes, sixty pounds to the bushel; rye, flaxseed, fifty-six pounds to the bushel; barley, forty-eight pounds; bran, twenty pounds; onions, fifty-seven pounds; dried peaches, thirty-three pounds; dried apples, twenty-four pounds; buckwheat seed, fifty-two pounds; castor beans, forty-six pounds; hemp seed, forty-four pounds; bluegrass seed, fourteen pounds; timothy seed, forty-five pounds; salt, fifty pounds to the bushel. One bushel of charcoal shall be equal to five peck measures. (M. C., sec. 2406.)

Sec. 2550. **Standard in absence of agreement.**—When no agreement exists to the contrary in relation to the above-named articles the measure and weight above specified shall be the city standard. (M. C., sec. 2407.)

Sec. 2551. **Corn and oats—standard weight of—penalty.**—The standard weight of corn in the ear shall be seventy pounds; shelled corn fifty-six pounds, and oats thirty-two pounds, avoirdupois. All persons offering corn in the ear, or oats by the load for sale, who shall neglect or refuse to have the same weighed by the city weigher shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not less than five nor more than twenty dollars for each and every offense, the fine to be collected before the police justice in the same manner as other fines are collected; provided, however, that the penalty herein provided shall not apply to persons selling ten bushels of corn or oats, or less, out of a load without weighing the same. (M. C., sec. 2408.)

ARTICLE III.

OF PUBLIC SCALES.

Sec. 2552. **Designation and location of public scales.**—There are hereby established in the City of St. Louis the following public scales to be designated and located as follows, to wit: The public scales on the levee between Carr and Biddle streets by authority of an ordinance entitled "An ordinance to erect public scales on the levee between Carr and Biddle streets," approved July thirty-first, eighteen hundred and fifty-eight, together with the office building connected therewith, are hereby established and continued as public scales, under the name of "North levee scales." The scales erected on the southern part of the levee, near the present landing of the Wiggins Ferry Company, erected by authority of an ordinance entitled "An ordinance providing for the erection of hay and coal scales on the south levee, near the ferry landing," approved March twenty-sixth, 1858, together with the office building for the weigher, are hereby established and continued as public scales under the name of "South levee scales." The scales at the point north of the city market, between Broadway and Fifth (Third) street, are hereby established and continued as public scales under the name of "City Market scales." The scales erected on Broadway (Third street) at or near the southeast corner of Christy avenue (or Green street) and the

alley running north and south, through city block number ninety-one, by authority of ordinance number nine thousand and forty-seven, approved July sixth, 1874, together with the office building connected therewith, are hereby established and continued as public scales, under the name of "Bridge scales." The scales erected on Main street in South St. Louis (Carondelet) near the South Market, by authority of ordinance number nine thousand three hundred and eighty-three are hereby established and continued as public scales under the name of "South Market scales." The scales erected at the southeast corner of Fulton and Carroll streets are hereby established and continued under the name of "Soulard Market scales." The scales erected at or near the corner of Clark avenue and Tayon avenue [Eighteenth] by authority of ordinance number ten thousand three hundred and eighty, are hereby established and continued as public scales under the name of "Adreon scales." The scales erected at the northeast corner of the insane asylum grounds by authority of ordinance number ten thousand three hundred and ninety-eight are hereby established and continued as public scales under the name of "Thorp scales." (M. C., sec. 2409.)

Sec. 2553. City hall scale established on Washington square.—A city scale is hereby established to be located in or near the new city hall on Washington square; said scale to be used for the weighing of all supplies furnished for use in the new city hall, old city hall, four courts and jail, and courthouse. Said scale shall be erected and maintained as an appurtenance of the new city hall. (Ord. 20331, sec. 1.)

Sec. 2554. Chief engineer of new city hall to supervise, etc.—In addition to his present duty it shall be the duty of the chief engineer of the new city hall to supervise and control the weighing on said city scale of all supplies furnished for use in the buildings named in the foregoing section, and to issue certificates of the correct weight of all articles of supplies so weighed, and no other certificates of weight for such supplies shall be recognized when payment for the articles is made. Said chief engineer shall not collect any fees for weighing, nor shall he or his assistants receive any compensation for their services in weighing and certifying other than the regular salaries of their positions. (Ord. 20331, sec. 2.)

Sec. 2555. "Weighers of scales"—term—bond—salaries.—There shall be appointed by the mayor, with the consent and approval of the council, a person to be denominated "weigher of scales" for each of the scales designated in section 2552, excepting Soulard Market and South Market scales, who shall hold their office for four years and until their successors are appointed and qualified, and who shall receive compensation as follows, to-wit: Weighers of North Levee, South Levee and Bridge scales, one thousand dollars per annum; weighers of all other scales mentioned in section 2552, except the weighers of Soulard Market, South Market and Thorp scales, nine hundred dollars each per annum; weigher of Thorp scales, three hundred and sixty dollars per annum, payable monthly, and his board and lodging in the insane asylum; all of said salaries shall be in full compensation for all services, and shall be payable monthly. All of said weighers shall be required to give a good and sufficient bond to the city, with two or more securities, to be owners of unincumbered real estate, located in the city, in the sum of one thousand dollars, except the weighers of Adreon and Thorp scales, who shall give a bond in the sum of five thousand dollars and two hundred dollars respectively, said bonds to be conditioned as the bonds of the other city officers, and to be approved by the mayor and council. (Ord. 21474, amending M. C., sec. 2410.)

Sec. 2556. **Comptroller to furnish tickets.**—The comptroller shall furnish the weighers at all the scales belonging to the city with printed tickets, and charge the same as cash to each weigher, to be accounted for at his monthly settlements. (M. C., sec. 2411.)

Sec. 2557. **Regulations as to weighing—scales designated.**—It shall not be lawful for any person to do any weighing for which a fee shall be charged, except upon the following scales: First, upon the public scales for which a weigher has been appointed by the mayor; second, upon scales owned by private parties, which have been authorized by acts of the legislature, and the owners of which have complied with the provisions of such act or acts; third, upon all private scales, the weighers of which shall have been approved by the mayor and have taken an oath before the register and filed a bond as required as weigher at the public scales. (M. C., sec. 2412.)

See *Coal Co. vs. St. Louis*, 130 Mo. loc. cit. 326.

Sec. 2558. **Weighers at private scales—blanks to be provided—regulations—penalty.**—The comptroller shall furnish the collector weighers' certificates in blank, signed by the register, and countersigned by the comptroller, for the use of the weighers of all private scales, who have been or may be appointed with the approval of the mayor, and who shall file a bond in the sum of one thousand dollars, with two or more securities, to be owners of unencumbered real estate, located in the city, to be approved by the mayor. The certificates so issued and furnished private scales authorized by the ordinances of this city or acts of the Legislature, to do public weighing, shall be printed on green paper for all weights and loads of stone or bituminous coal, anthracite or semi-anthracite coal and coke; and on red paper for all weights and loads of all other articles weighed; and on the back of every red and green ticket shall be printed the words: "The weigher of this scale has filed a bond with the register," and the further words: "Dealers in coal are not authorized to charge a fee for weighing their loads of twenty-five bushels or less on their own scales except hard or anthracite coal or coke;" the collector shall furnish to weighers at private scales certificates at the rate of five dollars per hundred for the red certificates and three dollars per hundred for the green certificates, and no certificates except those furnished by the collector, shall be issued by any person weighing at such private scales. Each weigher shall furnish a separate certificate for each and every load weighed, and only on the kind of blank provided by this section, and no weigher shall sell or dispose of any blank certificate or certificates received from the collector, except for loads actually weighed upon his scales; any violation of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof the offender shall be fined as provided in section 2583. The books kept by said weigher shall, at all times, be open to the inspection of the collector, the inspector of weights and measures, and such other officers as may be designated by the collector for that purpose. (Ord. 21449, amending M. C., sec. 2413.)

The provisions of this section (before amendment), upheld in *Coal Co. vs. St. Louis*, 130 Mo. 323, 326 *et seq.* See also *St. Charles vs. Elsner*, 155 Mo. 671.

Sec. 2559. **Assistant weighers—their compensation.**—The weighers of North and South levee and Bridge scales are hereby authorized and empowered to employ an assistant each, which appointments shall be approved by the mayor; said assistants shall receive in full compensation for their services the sum of six hundred dollars per annum, payable monthly. (M. C., sec. 2114.)

Sec. 2560. **Weighers responsible for acts of assistants.**—The weighers of scales shall be responsible for all acts of said assistants, and said assistants shall, in all respects, be liable and subject to the charter and ordinances relating to the city officers. (M. C., sec. 2415.)

Sec. 2561. **Market masters—to act as weighers.**—The market masters of Soulard and South markets are hereby instructed and required to perform the duties of weighers on the Soulard and South market scales respectively, without any additional compensation than the salary of market masters of the said markets. (M. C., sec. 2416.)

Sec. 2562. **Bonds of weighers—what are breaches of—also misdemeanor—penalty.**—In addition to the general fulfillment of the condition of a bond, as required from city officers, the following, among others, shall be deemed a breach or breaches of the official bond of a weigher of public or private scales:

First—If the scales and weights under the control of any such weigher shall be at any time so much out of order as to weigh forty or more pounds, more or less, than the standard weight, and he shall continue to weigh therewith and issue and charge for certificates of such weighing without giving notice to the inspector of weights and measures of the inaccuracy of his scales and weights and ceasing all weighing thereon until the same be tested and adjusted by the said inspector, at whose office notice in writing of the error of such scales and weights shall be left within forty-eight hours after the error in the same is found to exist.

Second—If any such weigher shall issue any certificate of weighing which shall show the gross or net weight of the load or article weighed to be forty or more pounds more than the true gross or net weight of the article weighed, or the tare to be forty or more pounds less than the true tare, or if any weigher shall deduct as tare the number of pounds marked on any wagon or vehicle without himself or some other lawful weigher having first weighed such wagon or other vehicle and marked or stamped on it the true weight thereof, and the number of the wagon, together with his name and the initials of the scales of which he is the weigher, and the date of weighing thereof, or if any such weigher shall mark or stamp, as last aforesaid, any wagon or other vehicle for a weight which is ten or more pounds less than the standard true weight thereof at the time of such marking or stamping, with intent to defraud, or if any such weigher shall fail to demand of and receive from every person presenting any hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, or anything to be weighed, the sum prescribed by ordinance to be paid therefor, no more no less, before delivering the certificate of the weight thereof; or if any such weigher shall fail to keep a book or books and enter therein daily, item by item, in legible handwriting, every load of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, and every other load or thing weighed, designating its kind, the gross tare and net weight thereof, the owner and driver thereof, and the true amount of fees charged and received therefor; or if he shall fail or refuse at any time to permit all the books or papers belonging to his office to be examined by the collector, or any person lawfully appointed for such purpose, and to furnish them copies or extracts of any part thereof; or if any weigher of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, appointed by the mayor under the provisions of this article, or any of his deputies shall, directly or indirectly, in person or by another, be engaged in the buying or selling of hay, grain or cereal, stone or bituminous coal, an-

thracite or semi-anthracite coal or coke, or other articles to be weighed, except so much as may be necessary for his private family use, in every such case, among others, a breach of such bond shall be deemed in law to be made, and any weigher of any public or private scale who shall commit any of the aforesaid acts constituting a breach of his official bond shall, in addition to forfeiting his bond, be guilty of a misdemeanor, and upon complaint being made in writing before either of the police justices of the City of St. Louis, it shall be the duty of the police justice to hear and determine the same as other misdemeanors according to ordinance, and in case of conviction thereof the offending party shall be fined as provided in section 2583. (Ord. 21449, amending M. C., sec. 2417.)

Sec. 2563. Weigher—when to forfeit position as.—Any weigher who shall be twice convicted before either of the police justices of the City of St. Louis of a breach of his bond or other violation or failure to comply with this article, shall, by virtue of such conviction, cease to be a weigher from and after the day on which said conviction is had, and the clerk of the court shall at once notify the mayor of the fact. (M. C., sec. 2418.)

Sec. 2564. Weighing—to be done on city scales—penalty.—Any person who brings or sends into the City of St. Louis for sale or for delivery, any hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, except bituminous coal in quantities less than twenty-five bushels, and hay, grain or cereal in quantities less than twenty-five hundredweight, in any wagon or other vehicle, and any person who actually sells, or offers for sale, any hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, except bituminous coal in quantities less than twenty-five bushels, and hay, grain or cereal in quantities less than twenty-five hundredweight, or delivers any such articles in any wagon or vehicle without first having had the same, and the wagon or other vehicle containing the same, duly and legally weighed at some city scale or by some legally bonded private weigher within the city limits on the day on which the same is sold or offered for sale, or delivered, or on the day previous thereto, and without first having procured a certificate of the weight thereof from some city weigher or legally bonded private weigher and paid for the same, according to the provisions of the ordinances of this city, which certificate shall contain a gross, tare and net weight of the articles contained in said wagon or other vehicle, as also the true fee paid the weigher thereof and the weigher's name written thereon, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined as provided in section 2583. (Ord. 21449, amending M. C., sec. 2419.)

Such provisions are valid under Charter provisions such as St. Louis has: *St. Charles vs. Elsner*, 155 Mo. 671; *Coal Co. vs. St. Louis*, 130 Mo. 326. See Charter, Art. III, sec. 26; clause 7.

Sec. 2565. Wagons without weight mark—penalty.—Any person who brings or sends into the City of St. Louis, and any person who sells or offers for sale or delivers, any hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, except bituminous coal in quantities less than twenty-five bushels, and hay, grain or cereal in quantities less than twenty-five hundredweight, in any wagon or other vehicle which has not marked or stamped thereon in plain and legible characters the weight thereof by a weigher legally authorized thereto in the manner mentioned in the second subdivision of section 2562, shall be deemed guilty of a misdemeanor, and upon conviction fined as provided in section 2583. (Ord. 21449, amending M. C., sec. 2420.)

Sec. 2566. Wagons—how often to be weighed.—It shall be the duty of all owners of wagons and other vehicles that may be employed in bringing stone coal to this city, to have their wagons or other vehicles weighed at least once every week, and no public weigher shall issue his certificate for any wagon or other vehicle upon which the date of its being weighed is longer preceding than one week. It shall be the duty of all owners of wagons or vehicles engaged in hauling grain, hay, iron or any other articles sold by weight, except stone coal to have their respective empty wagons or vehicles weighed every day when in use, and it is hereby made the duty of every weigher doing public weighing, to weigh such empty wagon or vehicle as prescribed in section 2562, and to issue a certificate of the weight thereof free of charge, and no weigher doing public weighing shall weigh a loaded wagon or vehicle until the certificate of the weight of the empty wagon or vehicle is properly produced. It shall also be the duty of any owner of any wagon or other vehicle to have the same reweighed immediately after said wagon or other vehicle has been repaired; and if any owner or driver of any wagon or other vehicle shall alter or change any part of said wagon or other vehicle after the same shall have been weighed, the said wagon or other vehicle shall be immediately reweighed before being used; provided, that so much of this section as requires the weighing of certain wagons or vehicles daily, shall not apply to farmers' wagons hauling produce into the city, but such wagons shall be weighed after the disposal or discharge of each and every load. (M. C., sec. 2421.)

Sec. 2567. Certificates varying from true weight—false certificates—right to have wagons hauling articles weighed—penalties for violations—sale of wagon, etc.—proceedings, etc.—It shall be the duty of any police officer of the City of St. Louis, as well as the right of any other citizen, to demand of the driver of any wagon or other vehicle in which any hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal, charcoal or coke, excepting bituminous coal in quantities less than twenty-five bushels, and hay, grain or cereal in quantities less than twenty-five hundredweight, is being hauled for delivery, to produce his certificate of weighing, and if he deems it necessary, to order him to drive his wagon or other vehicle, with its contents, to any one of the city scales, or to any private scale having a legally bonded weigher, and have the same weighed thereon; and if the gross or net weight be found less by seventy-five or more pounds, or tare greater by twenty-five or more pounds than the weigher's certificate in the hands of the driver calls for, to arrest or have arrested, as the case may be, such driver, and also his wagon or other vehicle, and the load therein, and enter a written complaint against such driver before either of the police justices of this city for a violation of this article, and such driver shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in the sum of not more than one hundred dollars and costs; and if the same be not paid forthwith, the said wagon or other vehicle, with the contents, shall be sold by the marshal within three days after the judgment is rendered by either of the police justices, and the fine, when collected, shall be paid one-half to the complainant and one-half to the city; provided that the inspector of weights and measures shall, upon arrest of any such driver, inspect and test the scales whereat the certificate was granted, and also those whereat the second weighing was done, and both are by him found accurate; for which duty the inspector of weights and measures shall, upon conviction of the driver, be entitled to a fee of five dollars, to be paid by the complainant and the city equally, upon the receipt by them of the amount of such fine, and upon conviction of the weigher, to a fee of five dollars, to be paid by the city on receipt by it of the amount of such fine, and provided also, in case of refusal by such driver to

produce his certificate, or upon the demand of the police officer or other citizen to drive his wagon or other vehicle, with its contents, to one of the city scales or private scales having a legally bonded weigher, for the purpose of being reweighed as aforesaid, such driver shall be deemed guilty of a misdemeanor, and his wagon or the vehicle, and its contents, shall be arrested, and he shall be complained of and convicted as if his wagon or other vehicle, were found to vary in weight from his certificate as aforesaid; and provided, also, that if the sale of the wagon or other vehicle, and its contents, shall not produce the amount of fine and costs, such driver shall, for the deficit, be liable in the same manner as other defendants who have been convicted and fined in the police court. (Ord. 22107, amending ord. 21449, sec. 2422.)

Sec. 2568. Fees for weighing—wrongful charge—penalty.

—Dealers in coal shall not be permitted to charge or receive from the purchaser of any load of coal containing twenty-five bushels or less, excepting hard or anthracite coal, a fee for weighing such load on their scales. For weighing each load of coal containing over twenty-five bushels, of which they are the owners, and weighed on their own scales, they are authorized to charge and receive a fee of twenty cents, or any less sum they may see fit to charge. Dealers in other articles are also authorized to charge and receive a like fee for weighing each load of their own articles upon their own scales. When loads of coal or other articles for parties other than the owner of the scales, the weigher of such scales shall be required to charge and receive a fee of twenty cents for each and every load weighed; and for each animal weighed separately, five cents. Any weigher in the City of St. Louis, who shall charge for weighing, where no fee is permitted to be charged, or shall, under any circumstances, charge more than the fee of twenty cents, or when weighing for parties other than the owner of the scale, charge less than the fee of twenty cents for weighing each load, as fixed by this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined as provided in section 2583; and no weigher shall deliver his certificate of weighing until the fee, according to the tariff, is paid; provided, that all weighers at public scales shall charge a uniform fee of twenty cents, neither more nor less, for each and every load weighed, and five cents for every animal weighed. (M. C., sec. 2423.)

Sec. 2569. Statements required of private owners—penalty.

—Every person, whosoever, interested as stockholder or owner in whole or in part in any private scale, licensed to do public weighing in the City of St. Louis, shall file with the register a written statement, verified by his affidavit, of his quantity or amount of stock or ownership in such scales, whether he deals in the buying or selling of hay or stone coal, or is interested in any way, directly or indirectly, in such buying or selling except for his own private family use, and in case of failure or refusal to comply with the provisions of this section, the owners of such scales shall be deemed to have forfeited the authority granted them, and the powers under which said scales are authorized to do public weighing shall be absolutely revoked and all weighing done thereat shall be illegal, and every person issuing certificates of weighing, or offering hay or stone coal for sale, with certificates from a forfeited scales, or the weigher thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined as provided in section 2583. (M. C., sec. 2424.)

Sec. 2570. Duties of weighers.—It shall be the duty of every weigher of the city scales appointed under this article:

First—To attend to the office of the public scales for which he is appointed, from sunrise to sunset of every day, Sundays and legal holidays

excepted, and to weigh every load of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, or other thing which may be presented to be weighed, and to give the person presenting the same a certificate of the gross tare and net weight thereof.

Second—To enter in suitable books, in tabular form, every load of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, or other thing weighed, designating the kind and weight thereof, and before whom weighed.

Third—To receive and receipt to the comptroller for all blank certificates which he may use or obtain.

Fourth—To settle with the comptroller on the last Saturday in each month for all blank certificates, and pay to the treasurer on Saturday of each week all moneys received by him as weigher, taking triplicate receipts therefor, one of which shall be filed with the auditor, and one with the comptroller.

Fifth—To perform such duties in the measurement of wood, and otherwise, as may be required of him by ordinance. (Ord. 21449, amending M. C., sec. 2425.)

Sec. 2571. Weight of bushel—coal.—In weighing stone coal the weigher shall compute eighty pounds avoirdupois to be a bushel. (M. C., sec. 2426.)

Sec. 2572. Dealing in unweighed coal and other articles prohibited.—No person shall buy or sell and deliver in any wagon or vehicle, and no person shall deliver in any wagon or other vehicle any hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, except bituminous coal in quantities less than twenty-five bushels, and hay, grain and cereal in quantities less than twenty-five hundredweight, until the same has been weighed by one of the legally authorized weighers, and a certificate of the weight thereof given as required in the provisions of this article. Any violation of the provisions of this section shall be deemed to be a misdemeanor, and upon conviction thereof the offender shall be fined as provided in section 2583. (Ord. 21449, amending M. C., sec. 2427.)

This section (prior to present amendment) upheld in *Coal Co. vs. St. Louis*, 130 Mo. 323, 327, *et seq.*

Sec. 2573. Frauds—punishment of.—Any person who shall have had any hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, or any other article weighed upon any public scale or private scale having a legally bonded weigher in the City of St. Louis, and received a certificate of the weight thereof, who shall sell a part thereof, and afterwards sell or offer to sell the remainder as for the quantity called for in his certificate; and any driver or teamster or hauler who shall sell or dispose of a part of any load of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, or any other article which has been legally weighed and for which he has received a certificate of the weight, and shall afterwards offer for sale or deliver the remainder as for the quantity called for in said certificate of weight so received by him, and any person who shall change, alter or in any manner falsify the certificate of the weigher, or shall perpetrate any fraud on the weigher or purchaser, or shall suffer any of these things to be done, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars. (Ord. 21449, amending M. C., sec. 2428.)

Sec. 2574. False certificate—penalty for sale under.—If any retailer or other person sell, or offer for sale, or deliver, a load of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke in the City of St. Louis under pretense of a weigher's certificate obtained under and by virtue of the weight of another and different load from the one he sells, or offers for sale, or delivers, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than one hundred dollars, nor more than five hundred dollars. (Ord. 21449, amend. M. C., sec. 2429.)

Sec. 2575. Liquor at scales prohibited.—Any weigher who keeps spirituous or other liquor of any kind in his office for the purpose of treating the drivers of hay or coal teams during the hours of weighing, or who treats them or any of them, directly or indirectly, for the purpose of procuring weighing to be done at his scales, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined as provided in section 2583. (M. C., sec. 2430.)

Sec. 2576. Dealing in articles not weighed at authorized scales prohibited—misdemeanor—penalty.—Any person offering for sale or delivery or delivering, in the City of St. Louis, any load of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, except bituminous coal in quantities less than twenty-five bushels, and hay, grain or cereal in quantities less than twenty-five hundredweight, or other article, in any wagon or other vehicle, which has been weighed at scales not authorized to issue certificates of weight by ordinances of the City of St. Louis, or shall sell, or offer to sell, or deliver, any load of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, except bituminous coal in quantities less than twenty-five bushels, and hay, grain or cereal in quantities less than twenty-five hundredweight, or other article, under and by authority of a certificate of weight issued by any weigher of such unauthorized or illegal scales, shall be deemed guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than one hundred dollars for every first offense, and for every subsequent offense the sum of not less than one hundred dollars, nor more than five hundred dollars. (Ord. 21449, amending M. C., sec. 2431.)

Sec. 2577. Acting as weigher at unauthorized scales prohibited—penalty.—Any person acting as weigher and issuing certificates of weighing at scales not authorized by ordinances, shall be deemed guilty of a misdemeanor and shall be fined as provided in section 2583. (M. C., sec. 2432.)

Sec. 2578. Penalty for interfering with scales or weighers—misdemeanor.—Any person who interferes with a public scale or the weigher thereof while in the discharge of his duty by demanding or exacting more weight of and for the article weighed than that what [which] he declares it to be, or by threatening or menacing him, or by using harsh or abusive language to him while in the discharge of his duty, or who shall cause any noise in or about the office of such scale, or who shall interfere with any person or persons who are about to have weighing done or who have already done weighing at any public scales, by menacing or otherwise abusing them therefor, or by using unseemly, profane, obscene or offensive language towards them shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined as provided in sec. 2583. (M. C., sec. 2433.)

Sec. 2579. Tests of scales to be made.—Each weigher shall cause the accuracy of the scales under his charge to be tested by the inspector of weights and measures at least twice in each year, and at all times such tests shall be made by the inspector of weights and measures; but no repairs involving any expenditure of money shall be made without the approval of the comptroller. (M. C., sec. 2434.)

Sec. 2580. Weigher and surety prohibited from dealing in articles weighable on scales.—No person acting as weigher on any scale authorized to do public weighing, or any of his bondsmen, shall, directly or indirectly, be interested or engaged in the buying or selling of hay, grain or cereal, stone or bituminous coal, anthracite or semi-anthracite coal or coke, or other articles weighed upon such scales of which such person is weigher. Any person violating this section shall be deemed guilty of a misdemeanor, and fined as provided in sec. 2583. (Ord. 21449, amending M. C., sec. 2435.)

Sec. 2581. Packages on wagons—how arranged and counted—penalty for violation.—Drivers of teams hauling hay, corn, oats and other articles in packages to be weighed are hereby required to arrange such packages on their respective wagons in such manner that they can be conveniently counted and the number thereof ascertained. It shall be the duty of every weigher to ascertain by actual count the number of packages on such wagons before issuing his certificate of weight and number thereof, and if, from the arrangement of such packages, he may be unable to correctly count and ascertain their number, he shall refuse to state upon the ticket the number of packages said to be contained in such load. Any weigher who fails to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined as provided in section 2583. (M. C., sec. 2436.)

Sec. 2582. Duty of collector.—It shall be the duty of the collector to see that the provisions of this article applicable to private scales are complied with, and to prosecute all parties violating or failing to comply with the same. (M. C., sec. 2437.)

Sec. 2583. Penalty for violation of any provision of this article—proceedings on convictions.—Any person violating or failing to comply with any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined (where no other fine is fixed by this article) not less than ten dollars nor more than five hundred dollars for each and every offense, to be collected as provided in other violations of the city ordinances. In addition to above penalty it is hereby further ordained, that whenever any owner or weigher of private scales shall be convicted of a second violation or failure to comply with the provisions of this article, the right to do weighing upon such scales shall be deemed to be forfeited, and the scales shall be abolished and removed from the street; and the police justice before whom the case may be tried shall so decree, and the clerk of said police court shall at once notify the street commissioner of such decree, and said street commissioner shall immediately proceed to remove or cause to be removed such scales from the public streets. (M. C., sec. 2439.)

ARTICLE IV.

OF CITY WEIGHERS.

Sec. 2584. City weighers by portable scales to be licensed—amount of.—The license collector is hereby authorized and directed to issue a license to exercise the office of city weigher, by portable scales, for the term of one year, to any person who shall apply for the same; provided, such person shall pay the sum of twenty-five dollars for such license. (M. C., sec. 2440.)

Sec. 2585. Location of office to be registered—duties—bond.—Each weigher shall keep an office, the location of which shall be registered by him in the license collector's office, and shall supply himself with suitable scales, tested and approved by the inspector of weights and measures, and shall, before entering on the duties of his office, give bond to the city in the penal sum of two thousand dollars, with good and sufficient security, to be approved by the license collector, conditioned for the faithful performance of the duties of the office of weigher and to indemnify all persons against any fraud, collusion or error on his part, and he shall, when requested, weigh any article of commerce and deliver to the applicant a certificate which shall state the marks and number of the packages weighed, the number of such packages constituting each draft, and the weight of such draft separately, and also the total weight of each lot of merchandise, which is distinguished by a separate mark, and shall keep a register in a suitable book of all articles weighed. (M. C., sec. 2441.)

Sec. 2586. Penalty for weighing without license.—Any person who shall exercise the office of city weigher on portable scales, without having taken out a license, as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty nor more than one hundred dollars for each and every offense, nor shall any weigher employ a deputy. (M. C., sec. 2442.)

Sec. 2587. License not to be granted to certain persons.—A license as weigher shall not be granted to any person or to any employe of any person who, at the time of applying for the same, is directly or indirectly engaged in buying, selling or trading in any article that he may be called upon to weigh, and any person who shall, after having taken out a license, become so engaged either as principal or employe, shall thereby forfeit the office and privileges granted by this article without claim on the city for the license money paid. (M. C., sec. 2443.)

Sec. 2588. Scales to be tested.—The scales of the city weigher shall be tested by the inspector of weights and measures at least once in every six months, and oftener, if such scales shall be supposed to be incorrect. (M. C., sec. 2444.)

Sec. 2589. Fees of city weighers.—The city weighers shall be entitled to charge and receive as compensation for their services, namely: For sacks of corn, wheat, oats, rye, seed, potatoes and onions, one cent per hundred pounds; for bags of dried fruit and bran, one and one-half cents per hundred pounds; for coffee, two cents per bag; for rags, two and one-half cents per hundred pounds; for baled hay, tow and hemp, one and one-half cents per hundred pounds; sugar, eighty-hundredths of one cent per hundred pounds; each hogshhead or package of tobacco, fifteen cents; meat,

ten cents per cask; meat in bulk, one and one-half cents per hundred pounds; lard, grease, tallow and oil, three cents per tierce or package; barrels, three cents each; kegs of lard, one cent each; bale of cotton, eight cents; pig iron, one cent per hundred pounds; pig lead, eighty-hundredths of one cent per hundred pounds; bales of bags of wool over one hundred pounds, eight cents; under a hundred pounds, four cents; coil rope, one and one-half cents each; tierces of rice, five cents each for assorted grain, fifty cents per hundred sacks. (M. C., sec. 2445.)

Sec. 2590. Register open to inspection.—The register required to be kept by the city weighers shall, at all times, be open to the inspection of any person interested in weighing done by them. (M. C., sec. 2446.)

ARTICLE V.

OF LUMBER MEASURERS.*

Sec. 2591. Mayor to appoint one chief and deputies.—Upon the recommendation of the St. Louis Hardwood and Lumber Manufacturers' Exchange, a corporation existing under the laws of Missouri, the mayor of the City of St. Louis shall appoint, for said exchange, one chief inspector and measurer and such deputy inspectors and measurers as may be necessary to perform the duties of inspecting and measuring any and all lumber which shall be placed under their supervision; and upon the recommendation of the Lumbermen's Exchange of St. Louis, a corporation existing under the laws of Missouri, the mayor of the City of St. Louis shall also appoint, for said exchange, one chief inspector and measurer and such deputy inspectors and measurers as may be necessary for its purpose. All of said appointments must, however, be confirmed by the council, and all vacancies shall be filled in like manner. (M. C., sec. 2447.)

Sec. 2592. Licenses and bonds.—The chief inspector and measurer shall pay a license fee of twenty-five dollars per year, and give a bond in the sum of three thousand dollars, and the deputy inspectors and measurers shall pay a license fee of fifteen dollars per year, and give a bond in the sum of two thousand dollars (such bonds to be payable to the City of St. Louis, for the use of any person injured) and conditioned for the faithful performance of the duties of their respective offices, and to indemnify all persons against any fraud, collusion or error on their part. (M. C., sec. 2448.)

Sec. 2593. Lumber to be inspected and measured—rules.—Said inspectors and measurers and their deputies shall be required to inspect and measure all lumber placed under their supervision, according to the rules of their respective exchanges, now in force or which may hereafter be adopted by them, such rules to conform to the provisions of this article. (M. C., sec. 2449.)

Sec. 2594. When license may be revoked.—Whenever it becomes necessary to suspend from duty or to discharge either chief inspector and measurer or his deputies of either of said exchanges, for dereliction of duty or transgressing any of the rules of such exchange, such suspension or discharge shall be duly certified by such exchange to the mayor of the City of St. Louis, and the license of said inspector and measurer, or deputy

*Municipal authority for lumber inspection and measurement: Charter, Art. III, sec. 26, clause 7; wharfage on lumber, *ib.*, clause 4.

inspectors and measurers, shall thereupon be revoked by the mayor, and any attempt to inspect or measure lumber as an official inspector and measurer, or deputy, for such exchange, on the part of any person whose license shall have been revoked, shall be a misdemeanor. The chief inspectors and measurers and deputy inspectors and measurers shall be subject to removal at any time by the mayor. (M. C., sec. 2450.)

Sec. 2595. Articles subject to inspection—where landed.—

All lumber or other articles brought to this city by water and landed on the wharf or landing, and which are placed under the supervision of any licensed lumber inspector and measurer, shall be placed where and in such manner as the harbor and wharf commissioner or his deputy may direct. (M. C., sec. 2451.)

Sec. 2596. Certificate of measurement—what to state.—All deputy lumber inspectors and measurers shall, upon measuring any lumber, give a certificate stating the quality and quantity thereof to the owner, countersigned by the chief inspector and measurer, and as prescribed by ordinance. (M. C., sec. 2452.)

Sec. 2597. Inspectors, etc., not to buy or sell.—It shall not be lawful for any chief inspector and measurer or any deputy inspector and measurer directly or indirectly, personally or by another, to be engaged in the buying or selling of any of the articles herein placed under their supervision. (M. C., sec. 2453.)

Sec. 2598. Fees.—The chief inspectors and measurers and deputy inspectors and measurer shall be entitled to collect for their own use for inspecting and measuring lumber such fees as may be established by the by-laws or rules of the exchange for which they are appointed. Such fees shall not at any time exceed the amount limited by ordinance. (M. C., sec. 2454.)

Sec. 2599. Penalty for acting without license, or violating this article.—No person shall perform the duties of the office of such chief inspector and measurer, or deputy inspector and measurer, unless he shall have first been appointed and obtained a license for that purpose, as provided in the preceding sections, and any person who shall perform the duties of any such office without such license, or who shall violate any of the provisions of this article, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars. Each and every act of inspecting or measuring lumber shall constitute a separate offense. (M. C., sec. 2455.)

APPROVED MARCH 19, 1907.

INDEX TO REVISED CODE FOLLOWS
APPENDIX.

PART IV.

APPENDIX

TO REVISED CODE.

GENERAL ORDINANCES ENACTED AFTER THE SUB-
MISSION OF THE REVISED CODE TO THE
MUNICIPAL ASSEMBLY, (IN SEPTEMBER, 1906) UP TO THE CLOSE
OF THE 1906-1907 SESSION THEREOF
IN APRIL
1907.

CHAPTER I.

BUILDINGS, DEPARTMENT OF.

ARTICLE IV.

BUILDING CODE.

(ORDINANCE 22778.)

Building Code—Clerks—Salaries, Bonds, etc.—An ordinance to amend Ordinance Number 21463, entitled, "An ordinance amendatory of Section Twenty-eight of Article Four of the Municipal Code of St. Louis [R. C., sec. 31] in relation to the office of the Commissioner of Public Buildings," approved April 7, 1904.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Ordinance Number 21463, entitled "An ordinance amendatory of Section Twenty-eight of Article Four of the Municipal Code of St. Louis, in relation to the office of the Commissioner of Public Buildings," approved April 7, 1904, is hereby amended by striking out Section One of said ordinance and inserting in lieu thereof a section having the same number and to read as follows: Section One. Section Twenty-eight of Article Four of the Municipal Code of St. Louis is hereby amended by striking out said section and inserting in lieu thereof another section bearing the same number, as follows: Section Twenty-eight. [R. C., sec. 31.] Clerks—Salaries and bonds. There shall be appointed by the Commissioner of Public Buildings, subject to the approval of the Mayor, a Chief Clerk and an Assistant Clerk, and a Permit Clerk. The Chief Clerk shall receive a salary of One Hundred and Twenty-five Dollars per month, payable monthly. He shall give bond in the sum of Two Thousand Dollars, with good and sufficient security, to be approved by the Mayor and Council. The Assistant Clerk shall receive a salary of One Hundred Dollars per month, payable monthly, and shall give bond in the sum of One Thousand Dollars, with good and sufficient security, to be approved by the Mayor and Council. The Permit Clerk shall receive a salary of One Hundred and Twenty-five Dollars per month, payable monthly, and shall give bond in the sum of Two Thousand Dollars, with good and sufficient security, to be approved by the Mayor and Council.

Approved February 12th, 1907.

(ORDINANCE 22749.)

Additional Employes and Appointees.—An ordinance to amend Ordinance Number 20661, entitled "An ordinance to amend Section Thirty-one of the Municipal Code (relating to Commissioner of Public Buildings) [R. C., sec. 34] by striking out said section and inserting a new section bearing the same number, by adding certain words thereto.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section One of Ordinance Number 20661 is hereby amended by inserting in said section after the word "monthly" in line fifteen thereof and before the word "The" in line sixteen thereof the following: "The said Commissioner of Public Buildings shall also have authority to appoint with the approval of the Mayor one additional inspector, to be known as Inspector of Plastering, who shall receive a salary of one hundred dollars each month, payable monthly, and who shall be a practical plasterer and a qualified voter of the City of St. Louis for at least two years prior to his appointment." So that said Section One of Ordinance Number 20661 as amended, shall read as follows: [R. C., sec. 34.]

Sec. 1. Section Number Thirty-one of the Municipal Code is hereby amended by striking out said section and inserting in lieu thereof a new section to be known as Section Number Thirty-one.

Sec. 31. In addition to the inspectors provided for in Section Thirty of this article, the Commissioner of Public Buildings may, when necessary for the proper performance of the work of the department, employ, with the approval of the Mayor, additional inspectors not exceeding six in number, and whose salaries shall be one hundred dollars each per month, payable monthly. The said Commissioner of Public Buildings shall also have authority to appoint, with the approval of the Mayor, one additional inspector, to be known as Inspector of Plastering, who shall receive a salary of one hundred dollars each month, payable monthly, and who shall be a practical plasterer and a qualified voter of the City of St. Louis for at least two years prior to his appointment.

The said Commissioner of Public Buildings shall also have authority to appoint, with the approval of the Mayor, one examiner of plans, whose salary shall

be one hundred and twenty-five dollars per month, payable monthly, and one record clerk, whose salary shall be one hundred dollars per month, payable monthly, and one stenographer, whose salary shall be seventy-five dollars per month, payable monthly. Said examiner of plans and inspectors of the second class shall be skilled mechanics, engineers or architects, having a thorough knowledge of building construction, and shall each give bond to the City of St. Louis for the faithful performance of his duties in the sum of two thousand dollars with two good and sufficient securities to be approved by the Mayor and Council. All of the employes herein authorized to be approved or employed shall be subject to dismissal by the Commissioner of Public Buildings at his pleasure. Seven horses and buggies shall be allowed to the office of the Commissioner of Public Buildings, to be acquired and maintained at the cost of the city; the purchase price of each outfit, consisting of horse, buggy and harness, shall not exceed the sum of three hundred and fifty dollars.

Approved February 5th, 1907.

(ORDINANCE 22748.)

Building Code—Ceilings—Partitions, etc.—An ordinance to amend Ordinance Number 22022, entitled "An ordinance to revise the building code of the City of St. Louis, being Article Four, Chapter One, of the Municipal Code, repealing Sections 38 to 253, inclusive, of said article, and enacting in lieu thereof a new ordinance governing the construction and erection, reconstruction, alteration, repair, remodeling, changing, moving, removal and securing of buildings in said city, and providing for the safety of buildings when so erected; also regulating the use of and providing for the safety of the public in theaters, opera houses and other buildings devoted to public amusement," approved April 7, 1905, by adding thereto a new section to be known as Section Seventy-one A. [R. C., sec. 111a.]

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Ordinance Number 22022, entitled "An ordinance to revise the Building Code of the City of St. Louis, being Article Four, Chapter One, of the Municipal Code, repealing Sections 38 to 253, inclusive, of said article, and enacting in lieu thereof a new ordinance governing the construction and erection, reconstruction, alteration, repair, remodeling, changing, moving, removal and securing of buildings when so erected; also regulating the use of and providing for the safety of the public in theaters, opera houses and other buildings devoted to public amusement," is hereby amended by inserting a new section to be known as Section 71 A, as follows:

Section 71 A. All ceilings and stud partitions of all dwellings, lodgings and tenement houses, and furred walls of the same, when plastered with lime mortar on wood lath, must have not less than one-half inch key, leaving space between ends of lath.

For three-coat or scratch-coat work to have at least seven-eighths inch grounds or jambs, mortar to be mixed as follows:

First of scratch coat to be mixed or tempered one part of thoroughly slaked lime to two and one-half parts of sand and one-half part of hair to be applied with sufficient pressure to insure a good rivet or clinch on upper side of lath, to be scratched thoroughly to make key to retain second coat. First coat to be thoroughly dry before applying; second coat or brown mortar, for three coat or scratch work to be mixed with one part of slaked lime to four parts of sharp sand, with little hair. Lime mortar for brick or tile work to be mixed with one part lime to five sand.

For two coats of laid off work. First coat to be mixed the same as in three coat work. Brown mortar or second coat to be mixed or tempered one part of lime to six parts of sand. Grounds should not be less than one-half inch. For white coating with lime mortar, lime should be well slaked and put through a fine screen or sieve.

To mix thoroughly before applying use two parts of lime to one-half part of plaster of paris.

For cornice work equal parts of lime and plaster of paris should be used. All lime should be slaked at least ten days before using. All plastering must be done straight and square to the floor line; also all plastering made flush and solid to all frames and to be straight and regular to all mouldings and casings.

When patent plasters are used, such as Acme, Climax, Royal, Laramie and other standard cement plaster:

For three-coat work, lath to be spaced not less than three-eighths inch key, joints to be broken every fifth lath, leaving space between ends of lath. First

coat: To each measure of fibered cement plaster add two measures of clean, sharp sand, mixed thoroughly and uniformly, and add sufficient water to temper to proper consistency. Mortar to be applied promptly with sufficient pressure to form a good rivet or clinch on upper side of lath. First coat to be thoroughly scratched to make a key to retain second coat.

Second coat to be applied when first coat is two-thirds dry, and to each measure of fibered cement plaster add two measures of clean, sharp sand, mixed thoroughly and uniformly, and add sufficient water to temper to a stiff mortar. Mortar to be applied promptly with sufficient pressure when half dry to apply finishing coat. Finish coat for smooth finish.

Unfibered cement plaster with sufficient water to temper to a proper consistency trowelled down with the least water possible and brushed with a perfectly dry brush.

Second coat work.

Grounds to be not less than one-half inch. Lath to be spaced not less than three-eighths inch key. Joints to be broken every fifth lath, leaving space between ends of lath.

First coat.

To each measure of fibered cement plaster, add two measures of clean, sharp sand, mixed thoroughly and uniformly. Add sufficient water to temper to proper consistency. Mortar to be applied at once, with coat sufficient to make walls flush with grounds. Apply finishing coat when first coat is half dry.

Approved February 5th, 1907.

(ORDINANCE 23013.)

Building Code—Re-enforcing—Concrete, etc. (See Rev. Code, sec. 234a).—

An ordinance to amend Ordinance Number 22022, entitled "An ordinance to revise the Building Code of the City of St. Louis, being Article Four, Chapter One of the Municipal Code, by repealing Sections 38 to 253, inclusive, of said article, and enacting in lieu thereof a new ordinance governing the construction and erection, reconstruction, alteration, repair, remodeling, changing, moving, removal and securing of buildings in said city, and providing for the safety of buildings when so erected; also, regulating the use of and providing for the safety of the public in theaters, opera houses, and other buildings devoted to public amusement," approved April 7, 1905, by adding thereto, and at the end thereof, five new sections, Numbered 188, 189, 200, 201 and 202, which said sections govern and regulate the composition, strength, resistance and use of concrete and re-enforced concrete, used in the construction, erection, reconstruction, modification, alteration and repair of buildings in the City of St. Louis.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Ordinance Number Twenty-two Thousand and Twenty-two, entitled: "An ordinance to revise the Building Code of the City of St. Louis, being Article Four, Chapter One, of the Municipal Code, repealing sections Thirty-eight to Two Hundred and Fifty-three, inclusive, of said article, and enacting in lieu thereof a new ordinance, governing the construction and erection, reconstruction, alteration, repair, remodeling, changing, moving, removal and securing of buildings in said city, and providing for the safety of buildings when so erected; also regulating the use of and providing for the safety of the public in theaters, opera houses, and other buildings devoted to public amusements," approved April Seventh, Nineteen Hundred and Five, is hereby amended by adding thereto and at the end thereof, five new sections, numbered One Hundred and Ninety-eight, One Hundred and Ninety-nine, Two Hundred, Two Hundred and One and Two Hundred and Two, which said sections govern and regulate the composition, strength, resistance and use of concrete and re-enforced concrete, used in the construction, erection, reconstruction, modification, alteration and repair of buildings in the City of St. Louis.

Sec. 198. Re-enforced Concrete. Definitions: First—Re-enforced Concrete is a concrete in which steel is embodied in such manner that the two act in unison in resisting stresses due to external loading. Second—Concrete is an artificial stone resulting from a mixture of Portland Cement, water and an aggregate. Third—Portland Cement shall be as defined in the Standard Specifications adopted on June Fourteenth, Nineteen Hundred and Four, by the American Society for Testing Materials. Fourth—An Aggregate, as herein used, means one or more of the following materials: Sand, broken stone, gravel, hard-burned clay. Aggregates

will be divided into two classes, Fine Aggregate and Coarse Aggregates. A Fine Aggregate will include all Aggregate passing a number eight sieve. A Coarse Aggregate will include all Aggregate passing a one-inch ring and retained on a number eight sieve.

Sec. 199. Quality of Materials. First—Portland Cement shall conform to the requirements of the specifications of the American Society for Testing Materials, as adopted June Fourteenth, Nineteen Hundred and Four, with all subsequent amendments thereto. Second—Aggregates. Fine Aggregates shall be well graded in size from the finest to at least the size retained on a number ten sieve. Coarse Aggregates shall also be well graded in size, from the finest to at least the size retained by a nine-sixteenths-inch ring. Fine Aggregates may contain not more than five per cent, by weight, of clay, but no other impurities. Coarse Aggregates shall contain no impurities. "A"—Sand shall be equal in quality to the Mississippi River sand. "B"—Broken Stone shall be either limestone, chatts or granite, or some other stone equal to one of these in the opinion of the Commissioner of Public Buildings. "C"—Hard-Burned Clay shall be made from suitable clay, free from sand or silt, burned hard and thoroughly. Absorption of water should not exceed fifteen per cent. Third—Concrete. The solid ingredients of the concrete shall be mixed by volume in one of the following proportions: "A," not more than three parts of Fine Aggregate to one of Cement. "B," not more than two parts of Fine Aggregate and four parts of Coarse Aggregate to one of Cement; but in all cases the Fine Aggregate shall be fifty per cent of the Coarse Aggregate. Concrete shall have an ultimate strength in compression in twenty-eight days of not less than the following: Burned-Clay Concrete—One Thousand Pounds per square inch. All other concrete, Two Thousand Pounds per square inch. Fourth—Steel. Steel shall be Medium Steel or High Elastic-Limit Steel. The physical properties shall conform to the following limits:

MEDIUM STEEL:

Elastic limit—Not less than 30,000.

Percentage of elongation, minimum in eight-inch, E, 1,800,000-10 (f—10,000).

Cold bend, without fracture on outer circumference—180 flat.

Character of fracture—Silky.

(f)—Unit stress in steel at ruptures.

HIGH ELASTIC-LIMIT STEEL:

Elastic limit—Not less than 50,000.

Percentage of elongation, minimum in eight-inch, E, 1,800,000-10 (f—10,000).

Cold bend, without fracture on outer circumference—90 to radius—five times thickness.

Character of fracture—Silky or fine granular.

(f)—Unit stress in steel at ruptures.

Tests shall be made on specimens taken from the finished bar, and certified copies of test reports shall be furnished the Commissioner of Public Buildings at his request. Bending tests shall be made by pressure. Finished materials shall be free from seams, flaws, cracks, defective edges or other defects, and have a smooth, uniform and workmanlike finish, and shall be free from irregularities of all kinds. The net area of cross section of finished steel members shall not be less than ninety-five per cent of the area shown on approved designs.

Section 200. Execution. All re-enforced concrete work shall be built in accordance with approved detailed working drawings. These drawings shall be submitted to the Commissioner of Public Buildings for approval, and no work shall be commenced until the drawings shall have been approved by him. The steel used for re-enforcing concrete shall have no paint upon it, but shall present only a clean or slightly rusted surface to the concrete. All dirt, mud or other foreign matter shall be removed. If the steel has more than a thin film of rust upon its surface it shall be cleaned before placing in the work. In proportioning materials for concrete, one bag containing not less than ninety-three pounds of cement, shall be considered one cubic foot. The ingredients of the concrete shall be so thoroughly mixed that the cement shall be uniformly distributed throughout the mass, and that the resulting concrete will be homogeneous. The concrete shall be mixed as wet as possible without causing a separation of the cement from the mixture, and shall be deposited in the work, in such manner as not to cause the separation of mortar from coarse aggregate. Concrete shall be placed in the forms as soon as practicable after mixing, and in no case shall concrete be used if more than one hour has elapsed since the addition of its water. It shall be deposited in horizontal layers not exceeding eight inches in thickness and thoroughly tamped with

tampers of such form and material as the circumstances require. The steel shall be accurately placed in the forms and secured against disturbance while the concrete is being placed and tamped, and every precaution shall be taken to insure that the steel occupies exactly the position in the finished work as shown on the drawing. Before the placing of concrete is suspended the joint to be formed shall be in such place and shall be made in such manner as will not injure the strength of the completed structure. Whenever fresh concrete joins concrete that has set the surface of the old concrete shall be roughened, cleaned and thoroughly slushed with a grout of neat cement and water. No work shall be done in freezing weather, except when the influence of frost is entirely excluded. Until sufficient hardening of the concrete has occurred, the structural parts shall be protected against the effects of freezing, as well as against vibrations and loads. When the concrete is exposed to a hot or dry atmosphere special precautions shall be taken to prevent premature drying by keeping it moist for a period of at least twenty-four hours after it has taken its initial set. This shall be done by a covering of wet sand, cinders, burlap, or by continuous sprinkling, or by some other method equally effective, in the opinion of the Commissioner of Public Buildings. If during the hardening period the temperature is continually above seventy F., the side forms of concrete beams and the forms of floor slabs, up to spans of eight feet, shall not be removed before four days; the remaining forms and supports not before ten days from the completion of tamping. If, during the hardening period, the temperature falls below seventy F., the side forms of concrete beams and the forms of floor slabs, up to spans of eight feet, shall not be removed before seven days; the remaining forms and the supports not before fourteen days from the completion of the tamping. But if, during the hardening period, the temperature falls below thirty-five F., the time for hardening shall be extended by the time during which the temperature was below thirty-five F. Forms for concrete shall be sufficiently substantial to preserve their accurate shape until the concrete has set, and shall be sufficiently tight so as not to permit any part of the concrete to leak out through cracks or holes. Before placing the concrete, the inside of the forms shall be thoroughly cleaned of all dirt and rubbish, the forms of all beams, girders and columns being constructed with a temporary opening in the bottom for this purpose. If loading tests are considered necessary by the Commissioner of Public Buildings, they shall be made in accordance with his instructions, but the stresses induced in all parts of a structural member by its test load shall be the same as if the member were subjected to twice the dead load, plus twice the assumed live load. All tests of material herein required shall be made by testing laboratories of required standing, and certified copies of such test reports shall be filed with the Commissioner of Public Buildings.

Section Two Hundred and One. Design. The weight of burnt-clay concrete, including the steel re-enforcement, shall be taken at one hundred and twenty pounds per cubic foot. The weight of all other concrete, including the re-enforcement, shall be taken at one hundred and fifty pounds per cubic foot. Besides the above, in calculating the dead loads, the weights of the different materials shall be assumed as given in Table Number One. WEIGHTS OF BUILDING MATERIALS, ETC., IN POUNDS PER CUBIC FOOT.

TABLE NUMBER ONE.

Material.	Weight.
Paving brick	150
Building brick	120
Granite	170
Marble	170
Limestone	160
Sandstone	145
Slag	140
Gravel	120
Slate	175
Sand	110
Mortar	100
Stone concrete	150
Cinder concrete	90
Plaster	140
Glass	160
Snow	40
Spruce	25
Hemlock	25
White pine	25

Oregon fir	30
Yellow pine	40
Oak	50
Cast iron	450
Wrought iron	480
Steel	490
Paving asphaltum	100

The following table gives the uniformly distributed live loads, for which structural members shall be designed, where their dead loads are as given in column "A":

TABLE NUMBER TWO.

Dead load, pounds per square foot. Column "A."	Corresponding live load, pounds per sq. foot.			
	1	2	3	4
40 or under.....	72	103	155	194
50.....	63	93	140	175
60.....	59	84	126	158
70.....	53	76	114	143
80.....	48	69	104	130
90.....	46	64	96	120
100.....	41	58	87	109
110.....	37	53	80	100
120.....	34	49	74	93
130.....	31	44	66	81
140.....	29	41	62	78
150 or over.....	27	39	59	74

The five loads on floors, for dwellings, apartment houses, dormitories, hospitals, and hotels, shall be given in Column One of Table Number Eleven. For school-rooms, churches, offices, theater galleries, use Column Two of Table Number Eleven. For ground floors of office buildings, corridors and stairs in public buildings, ordinary stores, light manufacturing establishments, stables, and garages, use Column Three, Table Number Two. For assembly rooms, main floors of theaters, ballrooms, gymnasiums, or any room likely to be used for dancing or drilling, use Column Four, Table Number Two. For sidewalks, three hundred pounds per square foot. For warehouses, factories, special according to services, but not less than Column Four of Table Number Two. For columns the specified uniform live loads per square foot shall be used, with minimum of twenty thousand pounds per column. For columns carrying more than five floors, the live loads may be reduced as follows: For columns supporting the roof and top floor, no reduction. For columns supporting each succeeding floor, a reduction of five per cent of the total live load may be made until fifty per cent is reached, which reduced live load shall be used for the columns supporting all remaining floors. This reduction is not to apply to live load on column of warehouses, and similar buildings which are likely to be fully loaded on all floors at the same time. The method used in computing the stresses shall be such that the resultant unit stresses shall not exceed the prescribed unit stresses as computed on the following assumptions: First, that a plane section normal to the neutral axis remains such during flexure, from which it follows that the deformation in any fiber is directly proportionate to the distance of that fiber from the neutral axis. Second, that the modulus of elasticity remains constant within the limits of the working stresses fixed in these regulations and is as follows: Steel, thirty million pounds per square inch; burnt clay concrete, one million five hundred thousand pounds per square inch. All other concrete, two million pounds per square inch. Third, that concrete does not take tension, except that in floor slabs, secondary tension induced by internal shearing stresses may be assumed to exist. Section Two Hundred and Two, unit stresses. The allowable unit stresses under a working load shall not exceed the following:

Burnt Clay Concrete—Direct compression, 300 pounds per square inch; cross bending, 400 pounds per square inch; direct shearing, 150 pounds per square inch; shearing where secondary tension is allowed, 15 pounds per square inch.

All Other Concretes—Direct compression, 500 pounds per square inch; cross bending, 800 pounds per square inch; direct shearing, 300 pounds per square inch; shearing where secondary tension is allowed, 25 pounds per square inch.

STEEL.

	Medium steel.	High elastic limit steel.
Tension.....	14,000	20,000

* The compression in the steel shall be computed from the corresponding compression in the concrete, except for hooped columns. The bonding stress between steel and concrete under working load shall not exceed the following for plain steel: For medium steel, fifty pounds per superficial square inch of contract. For high elastic limit steel, thirty pounds superficial square inch of contract. For bars of such shape throughout their length that their efficiency of bond does not depend upon the adhesion of concrete to steel, the allowable bonding stress under working load shall be determined as follows: The bars shall be imbedded not less than six inches in concrete as herein defined, and the force required to pull out the bar shall be ascertained. At least five such tests shall be made for each size of bar, and the affidavit report of the test shall be submitted to the Commissioner of Public Buildings, who shall then fix one-fourth of the average stress thus ascertained at failure as the allowable working stress. The unsupported length of a column shall not exceed fifteen times its least lateral dimension. In a column subjected to combine direct compression and flexure, the extreme fiber stress resulting from these combined actions shall not exceed the unit stress prescribed for direct compression. All columns shall have longitudinal steel members so arranged as to make the column capable of resisting flexure. These longitudinal members shall be stayed against buckling at points whose distance apart does not exceed twenty times the least lateral dimension of the longitudinal member. In no case shall the combined area of cross section of these longitudinal members be less than one per cent of the area of the concrete used in proportioning the column, and the stays shall have a minimum cross section of three one-hundredths of a square inch. If a concrete column is hooped with steel near its outer surface either in the shape of circular hoops, or of a helical cylinder, and if the minimum distance apart of the hoops or the pitch of the helix does not exceed one-tenth the diameter of the column, then the strength of such column may be assumed to be the sum of the following three elements: First, the compressive resistance of the concrete when stressed not to exceed five hundred pounds per square inch, for the concrete inclosed by the hooping, the remainder being neglected. Second, the compressive resistance of the longitudinal steel re-enforcement when stress does not exceed allowable working stress for steel in tension. Third, the compression resistance which would have been produced by imaginary longitudinals stressed the same as the actual longitudinals, the volume of the imaginary longitudinals being taken at two and four-tenths times the volume of the hooping. In computing the volume of the hooping it shall be assumed that the section of the hooping throughout is the same as its least section. If the hooping is spliced, the splice shall develop the full strength of the least section of the hooping. The minimum covering of concrete over any portion of the re-enforcing steel shall be as follows: For flat slabs, not less than one inch; for beams, girders, ribs, etc., not less than one and one-half inches; for columns, not less than two inches. In computing the strength of columns, other than hooped columns, the outside one inch around the entire column shall be neglected. For flat slabs continuous over two or more supports and uniformly loaded, the bending moment may be taken as $W \cdot L$ divided by twelve, in which W equals total loads on the span and L the center to center distance between supports. Beams continuous over supports shall be re-enforced to take the full negative-bending moment over the supports, but shall be computed as noncontinuous beams. The minimum distance center to center of re-enforcing steel members shall not be less than the maximum diameter or diagonal dimension of cross section plus two inches. The designing "T" beams the width of floor slab, which may be assumed to act as compression flange of the beam, shall not exceed one-fourth of the span of the beam, but in no case shall it exceed the distance center to center of beams. If it is necessary to splice steel re-enforcing members either in compression or tension, the splice shall be either a steel splice that in tension will develop the full strength of the member, or else the members shall be lapped in the concrete for a length equal to at least the following: For plain bars of medium steel, forty times the diameter or maximum diagonal of cross section. For plain bars of high elastic limit steel, seventy times the diameter or maximum diagonal of cross section. For other than plain bars, the length of lap shall be in inverse ratio to the ratio of the allowed bonding stresses as herein required. In no case, however, shall the steel re-enforcement in a beam or girder be lap spliced.

CHAPTER VI.

FIRE DEPARTMENT.

(ORDINANCE 22809.)

Fire Department.—An ordinance to repeal Ordinance Number 22278, approved March 5, 1906 [R. C., secs. 285, 287], and to enact a new ordinance in lieu thereof, in relation to the Fire Department.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section One. Ordinance Number 22278, approved March 5, 1906, is hereby repealed, and the following new sections are hereby enacted in lieu thereof; to be known as Sections 296 and 298, respectively. [R. C., secs. 285, 287.]

Section 296. The Fire Department shall consist of a Chief, one First Assistant Chief and eleven District Assistants, one Secretary, one Assistant Secretary, one Master Mechanic, two Hostlers, for Horse Hospital, and such numbers of Engineers, Captains, men and employes as are herein provided. Each company located in the district bounded south by Park avenue, north by Howard street, west by Jefferson avenue and east by the river shall consist of one Captain, one Lieutenant and one Engineer, one Fireman, two Drivers and six Pipemen. Each company located in any of the territory not included in the district above bounded shall consist of one Captain, one Lieutenant, one Engineer, one Fireman, two Drivers and three Pipemen. All Hook and Ladder companies in the district bounded above shall consist of one Captain, one Lieutenant, one Driver and eight men, and all hook and ladder companies outside of said district shall consist of one Captain, one Lieutenant, one Driver and seven men. There shall be one Watchman for each engine house in the city, and whenever there are double or adjoining houses used by the department, the Watchman's duty shall extend thereto. The Watchmen shall be disabled or old firemen, if there be such in the department. There shall be two Firemen in the service of the Fire Department, to be stationed at each of the following institutions: City Hospital, Emergency Hospital Number Two, Insane Asylum, Poorhouse, Hospital for Females and St. Louis Industrial School. One of the two men so designated and stationed at each of said institutions shall be on duty during the day and the other during the night, so that one man shall be on duty at all times. There shall be two men to each fuel wagon necessary. The Master Mechanic shall have at least three years' experience in the St. Louis Fire Department, and shall have been a resident of the city at least five years, and shall be a licensed engineer of the city and a practical mechanic. The Master Mechanic shall have charge of the repairs of all apparatus of the Department, and shall see that same is kept in perfect order.

Section Two Hundred and Ninety-eight. The First Assistant Chief shall receive as full compensation for his services the sum of One Hundred and Seventy-five Dollars per month. The eleven other assistants shall receive for their services the sum of One Hundred and Sixty-six Dollars and Sixty-six Cents per month, and all other assistants shall have at least three years' experience in the St. Louis Fire Department, and have been a resident of the city for at least five years. The Secretary shall receive as full compensation for his services the sum of One Hundred and Fifty Dollars per month. The Assistant Secretary shall receive as full compensation for his services the sum of One Hundred and Fifteen Dollars per month. The Master Mechanic shall receive as full compensation for his services the sum of One Hundred and Sixty-six Dollars and Sixty-six Cents per month. Captains of each company shall receive as full compensation for their services the sum of One Hundred and Fifteen Dollars per month. Lieutenants of each company shall receive as full compensation for their services the sum of One Hundred and Five Dollars per month. Engineers shall receive as full compensation for their services the sum of One Hundred and Ten Dollars per month. All other members of the Department, except Hospital Firemen, Watchmen and Hostlers, shall receive as full compensation for their services the sum of Ninety-five Dollars per month, provided, however, that new men appointed to the department shall, for the first six months' service, receive Seventy Dollars per month, and for the second six months Eighty Dollars per month. Hospital Firemen shall receive as full compensation for their services the sum of Eighty Dollars per month.

Watchmen shall receive as full compensation for their services the sum of Eighty Dollars per month, provided, however, that Watchmen shall be selected from disabled men, or others who have served on the department, if such can be

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HARBOR AND WHARF—HEALTH DEPARTMENT.

found, and as to those appointed Watchmen without such experience the monthly salary shall be Sixty Dollars. Hostlers shall receive as full compensation for their services the sum of Sixty Dollars per month.

Section Two. This ordinance becomes effective on and after May first, Nineteen Hundred and Seven.

Approved February 18, 1907.

CHAPTER X.

HARBOR AND WHARF DEPARTMENT.

ARTICLE I.

REGULATIONS AND OFFENSES.

(ORDINANCE 22739.)

An ordinance to amend Chapter Ten, Article One, of the Municipal Code, by adding thereto a new section, to be known as Section 372A. [R. C., sec. 366a.]

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section One. Chapter Ten, of Article One, of the Municipal Code, is hereby amended by adding thereto a new section to be known as Section Three Hundred and Seventy-two A, as follows:

Section Three Hundred and Seventy-two A. Any person who shall steal, take or drive away from any stable, garage or shelter any wagon or automobile or other vehicle not his own property, without the consent or order of the owner thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than one hundred dollars.

Approved February 5th, 1907.

CHAPTER XI.

HEALTH DEPARTMENT.

ARTICLE III.

OF CITY BACTERIOLOGIST.

(ORDINANCE 22810.)

Assistants to City Bacteriologist.—An ordinance authorizing the appointment of two laboratory assistants in the office of the City Bacteriologist. [R. C., sec. 475a.]

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section One. The Health Commissioner is hereby authorized to appoint, by and with the approval of the Board of Health, two laboratory assistants in the office of the City Bacteriologist.

Section Two. The compensation of these laboratory assistants shall be at the rate of Fifty Dollars per month; their duties shall be prescribed by the City Bacteriologist.

Section Three. These laboratory assistants may be suspended by the City Bacteriologist for neglect of duty or violation of the rules, and when the City Bacteriologist shall suspend either of said parties he shall report at once the facts to the Health Commissioner, who may take such action as he may deem proper.

Section Four. The salaries of the persons provided for in this ordinance are to be paid out of the funds appropriated for "Salaries in the office of the City Bacteriologist."

Approved February 18, 1907.

(ORDINANCE 22561.)

Snodgras Laboratory.—An ordinance authorizing the establishment of the Snodgras Laboratory of Pathology and Bacteriology on the property of the City of St. Louis, in City Block Twelve Hundred and Fifty-two, and adjoining the City Hospital, and making appropriations for the equipment of the same.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. The building lately erected on the south side of Carroll street in City Block Twelve Hundred and Fifty-two, and connected with the City Hospital, shall be known and designated as the "Snodgras Laboratory of Pathology and Bacteriology," and the City Bacteriologist shall maintain his laboratory and carry on his work in this building.

Sec. 2. For the purpose of thoroughly equipping and furnishing the Snodgras Laboratory of Pathology and Bacteriology, there is hereby appropriated and set apart out of Municipal Revenue, for the purchase of Microscopes and Accessory Apparatus, Chemical Apparatus, Instruments, Library and Museum, Autopsy Room Equipment, Chemicals and Supplies, and Furniture, the sum of fifteen thousand dollars.

Sec. 3. All requisitions for purchase for the Snodgras Laboratory of Pathology and Bacteriology shall be made by the City Bacteriologist and approved by the Health Commissioner.

Approved October 2, 1906.

ARTICLE XIII.

OF DEAD ANIMALS, OF GARBAGE AND OFFAL.

(ORDINANCE 22580.)

Disposal of Dead Animals.—An ordinance to amend sections 665, [R. C., sec. 676], 666 [R. C., sec. 677], and 673 [R. C., sec. 684], of "The Municipal Code of St. Louis," in relation to the disposal of dead animals.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Sections 665 [R. C., sec. 676], 666 [R. C., sec. 677], and 673 [R. C., sec. 684], of "The Municipal Code of St. Louis" are hereby amended by striking out said sections and substituting and inserting in lieu thereof new sections to be known by the same numbers, so that the sections as amended shall read as follows:

Sec. 665. It shall be the duty of all agents and employes of the Board of Health or of the Street Department, and of all policemen, to report to the department having charge or control of the matter any carcass or remains of any dead animal which they may find or of the existence of which within the city limits they may be informed, as soon as may be, and within three hours after such fact shall come to their knowledge, and such department shall enter such report in a book to be kept for that purpose, and designate therein the locality, as near as the same can be ascertained, where such carcass or remains may be, and also the time when reported.

Sec. 666. The aforesaid book shall at all times be open to the inspection of the public, and any person may report the existence of any carcass or remains of dead animals within the city limits to such department having control of the removal thereof; or the same may be reported to any policeman, or at any police station to the person in charge thereof, who shall immediately, or as soon as may be, report the same to the said department in charge or control of the removal thereof, which shall take immediate measures to effectuate such removal.

Sec. 673. The carcass of all dead animals lying on the streets, alleys or public places of St. Louis, or on private premises therein, and not slain for human food, and not removed by the owner or other person entitled thereto within six hours or daylight time after the death of such animals, are hereby declared to be nuisances, and shall be removed and disposed of as hereinafter provided.

Approved October 12, 1906.

ARTICLE XV.

OF REGULATIONS CONCERNING MEDICINE AND SURGERY AND MIDWIFERY

(ORDINANCE 23001.)

An ordinance to amend Section Number 738 of Article Fifteen, Chapter Eleven of the Municipal Code of St. Louis [R. C., sec. 715], by striking out the word "forty" in the eighth line of said section and inserting in lieu thereof the word "seventy-five."

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Sec. 1. Section Number 738 of Article Fifteen, Chapter Eleven, of the Municipal Code of St. Louis, is hereby amended by striking out the word "forty" in the eighth line thereof, and inserting in lieu thereof the word "seventy-five," so that said Section Number 738 will read as follows:

Sec. 738. [R. C., sec. 715..]—**Nurses—Rules of selection of.**—All nurses employed by the city may, to the extent that the institution will supply the same, be selected from the pupils of the St. Louis Training School. They shall be paid in monthly installments, the amount now specified by ordinance for corresponding positions. A residence in the city for two years shall not be necessary to entitle one to appointment under this and the next preceding section. One selected from said institution shall be called superintendent of nurses, and shall be paid seventy-five dollars per month, and the duties of the position shall be defined by rules and regulations prepared by the Health Commissioner and approved by the Board of Health. All appointments under this article shall be made by the Health Commissioner and approved by the Board of Health.

Approved April 1, 1907.

(ORDINANCE 22998.)

Regulation of Private Hospitals, Lying-In Institutes, Foundling Establishments, etc.—"An ordinance to regulate hospitals, sanitariums, lying-in establishments, lock hospitals, homes, retreats or other places, or institutions intended for the boarding, lodging, nursing or care of the sick, or such persons as are suffering from or afflicted with bodily or mental infirmities or ailments of any kind whatsoever, or pregnant women, or institutions for the care of orphans, vagrant or destitute children, foundling homes, or dispensaries, and prescribing penalties for the violation thereof, and authorizing the Board of Health to make rules and regulations in reference thereto."

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. From and after the passage and approval of this ordinance, no person shall establish, maintain, operate or conduct a hospital, sanitarium, lying-in establishment, lock hospital, home, retreat, or other place or institution intended for the boarding, lodging, nursing or care of the sick or such persons as are suffering from or afflicted with bodily or mental infirmities or ailments of any kind whatsoever, or pregnant women, or any institution for the care of orphans, vagrant or destitute children, a foundling home or a dispensary, within the limits of the City of St. Louis, without first having obtained a permit to do so from the Board of Health, as in this ordinance provided. The word "person," as used in this ordinance, shall include the members of any firm or partnership, a corporation, and any or all of the officers, managers or board of directors of such corporation.

Sec. 2. Any person who may desire to establish, maintain, operate or conduct a hospital, sanitarium, lying-in establishment, lock hospital, home, retreat, or other place or like or similar institution intended for the boarding, lodging, nursing or care of the sick or such persons as are suffering from or afflicted with bodily or mental infirmities or ailments of any kind whatsoever, or pregnant women, or an institution for the care of orphans, vagrant or destitute children, a foundling home or dispensary, in the City of St. Louis, from and after the passage and approval of this ordinance shall first file a written application, addressed to the Board of Health, requesting said Board to grant to the applicant therein named permission and authority to establish, maintain, operate and conduct the kind of institution therein described, which application shall contain the following information: First, the name or names of any

and all persons who are to control, operate or manage such institution, including the matron, superintendent, resident physician or surgeon, medical staff, including any and all physicians or surgeons who are in any manner connected or identified with such institution; also the names of any midwives attached to or connected with the institution, and if a corporation, then also the names of the officers and board of directors thereof. Second, the location of the proposed institution and the name under which said institution will be operated or conducted. Third, the size and dimensions of the building or buildings, and the number of rooms in such building. Fourth, the maximum number of patients that the institution can properly accommodate. Fifth, whether any business is or will be conducted or operated in the same building or buildings or on the same premises, and if so, what other business. Sixth, a written statement from each member of the medical staff, the resident physician or surgeon, superintendent and matron, certifying that he or she will serve on the staff of said institution as stated by the applicant in the application for such permit.

Sec. 3. Upon the filing of such application the Health Commissioner shall cause the building or buildings, and premises, to be thoroughly examined and inspected, but no building shall be used for any of the purposes herein specified which does not, among other things, conform to the following requirements: Every room, including water closet compartments and bathrooms, shall have at least one window opening directly upon the street or upon an areaway, a yard or court; the total area of the windows in such room shall be at least one-eighth of the superficial area of the room, and one-half of the sash shall be made to open full width. If, as a result of such examination, it shall be found that the building or buildings and premises conform to the requirements of this ordinance and the Health Commissioner shall be of opinion that the building or buildings and premises are in all other respects in a sanitary condition, that the statements made in the application for a permit are true and that the applicant is a person of good character, he shall refer such application to the Board of Health for its action, with his report and indorsement thereon.

Sec. 4. In all cases in which the Board of Health shall act favorably upon any application, it shall issue a permit authorizing the person named therein to establish, maintain or conduct an institution of the kind described in the application for such permit, under the name and at the place designated in such application, for the period of one year from the date thereof, which permit shall be subject to revocation by the Board of Health at any time for any of the causes herein specified. Said permit shall not be transferred by the person to whom it is issued without the consent and approval in writing of the Board of Health, and any transfer or attempted transfer thereof, or any change in the name of such institution, or change in the management or managers of such institution, or the location of such institution without the approval of the Board of Health in writing, shall render such permit absolutely void and cause the immediate forfeiture of such permit and of all rights thereunder to establish, maintain, operate or conduct any such institution within the limits of the City of St. Louis. Every person who secures a permit from the Board of Health to establish, maintain, operate or conduct any institution described in this ordinance shall immediately notify the Health Commissioner of any change in the medical staff, resident physician or surgeon, superintendent, midwives or matron, attached to or connected with such institution.

Sec. 5. Any and all hospitals, sanitariums, lying-in establishments, lock hospitals, homes, retreats or other places, or like or similar institutions, intended for the boarding, lodging, nursing or care of the sick, or such other persons as are suffering from or afflicted with bodily or mental infirmities, or ailments of any kind whatsoever, or pregnant women, within the limits of the City of St. Louis, shall keep a physician, licensed to practice medicine and surgery in the State of Missouri, and who is actively engaged in the practice of medicine and surgery, resident therein.

Sec. 6. Any person who shall establish, maintain or conduct any hospital, sanitarium, lying-in establishment, lock hospital, retreat, home or place, or like or similar institution intended for the boarding, lodging, nursing or care of the sick or such persons as are suffering from or afflicted with bodily or mental infirmities or ailments of any kind whatsoever, or pregnant women, or an institution for the care of orphans, vagrant or destitute children, a foundling home, or a dispensary, in the City of St. Louis, after the passage and approval of this ordinance without first having obtained a permit from the Board of Health so to do; or any person who shall continue to maintain, operate or conduct any such institution or place after the Board of Health shall have revoked the permit so to do previously issued to such person; or any person to whom a permit shall have been issued to establish, maintain, operate or conduct any such institution, who shall transfer

such permit without first obtaining the approval of the Board of Health in writing therefor; or who shall allow any room in the cellar or basement of such institution to be occupied by a greater number of persons than will afford less than four hundred cubic feet of air to each adult and two hundred cubic feet of air to each child under twelve years of age occupying such room; or who shall permit any accumulation of dirt, filth or garbage in or about the buildings or premises of such institution, or who shall permit any person to practice medicine, surgery, or midwifery in such institution who is not authorized by the laws of the State of Missouri so to practice; or who shall establish, maintain, operate or conduct any institution named in this ordinance under any other name or at any other place than as stated in the application for a permit to establish, maintain, operate or conduct such institution, without the consent and approval of the Board of Health in writing therefor; or who shall fail to immediately notify the Health Commissioner of any change in the medical staff, resident physician, superintendent, matron or midwives of any such institution; or who shall establish, maintain, operate or conduct a hospital, sanitarium, lying-in establishment, lock hospital, home, retreat or other place or like or similar institutions intended for the boarding, lodging, nursing or care of the sick or such persons as are suffering from or afflicted with bodily or mental infirmities or ailments of any kind whatsoever, or pregnant women, within the limits of the City of St. Louis, and shall fail to keep a physician, licensed to practice medicine and surgery in the State of Missouri, and who is actually engaged in the practice of medicine and surgery, resident therein, shall be deemed guilty of a violation of this ordinance.

Sec. 7. Any person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty dollars nor more than five hundred dollars.

Sec. 8. The Board of Health is hereby authorized to make from time to time such rules and regulations in respect to the management and conduct of any institution described in this ordinance and for the care and treatment of the patients or inmates thereof, as said board may deem wise.

Sec. 9. For any violation of any of the provisions of this ordinance or for any violation of the laws of the State of Missouri, or the ordinances of the City of St. Louis, or for any violation of any of the rules and regulations which may be prescribed from time to time by the Board of Health for the conduct or management of any of the institutions herein named, the Board of Health shall have the right to revoke any permit theretofore granted by it, provided said board shall issue a notice to the person named in such permit, advising him of the time and place of the Board's actions thereon and the grounds therefor. Said notice shall be served at least ten days prior to the hearing thereon, either by delivering a copy thereof to the person therein named or by leaving a copy of such notice at the institution named in the permit which the board intends to investigate.

Sec. 10. Every person who is maintaining, operating or conducting a hospital, sanitarium, lying-in establishment, lock hospital, home, retreat, or other place, or like or similar institution, intended for the boarding, lodging, nursing or care of the sick or such persons as are suffering from or afflicted with bodily or mental infirmities or ailments of any kind whatsoever, or pregnant women, or an institution for the care of orphans, vagrant or destitute children, a foundling home or a dispensary, in the City of St. Louis shall, within sixty days after the passage and approval of this ordinance, secure a permit from the Board of Health in accordance with the provisions of this ordinance, to maintain, operate and conduct such institution or place.

Approved April 1st, 1907.

ARTICLE XVI.

OF CITY HOSPITAL.

(ORDINANCE 22935.)

Nurses at City Hospital.—An ordinance authorizing the appointment of eight additional nurses at the City Hospital.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Sec. 1. The Health Commissioner, with the approval of the Board of Health, may appoint for service in the City Hospital, under the superintendent of City Hospital and the superintendent of nurses, one assistant superintendent of nurses, one surgical operating nurse, three night supervising nurses and three day super-

vising nurses, each of whom shall be graduated trained nurses, and shall be paid fifty dollars per month, and shall perform duties which shall be defined by the rules and regulations prepared by the Health Commissioner and approved by the Board of Health; the said salaries to be paid out of the funds appropriated for salaries in the Health Department.—(a)

Approved March 27, 1907.

(a) See note to sec. 715 of Revised Code.

CHAPTER XII.

OF HIGHWAYS.

ARTICLE II.

CONSTRUCTION AND PREVENTING OBSTRUCTIONS.

(ORDINANCE 22885.)

Temporary Occupation of Streets, etc.—An ordinance to amend the third paragraph of Section Number 925 of the Municipal Code of St. Louis, as amended by Ordinance Number 21394 [R. C., sec. 928], in relation to the occupancy of streets and sidewalks with building materials.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section 925 of the Municipal Code of St. Louis, as amended by Ordinance Number 21394, is hereby amended by striking out said section and substituting and inserting a new section, in lieu thereof, to be known by the same number, so that said section, as amended, shall read as follows:

Sec. 925. [R. C., sec. 928.] Any person, firm or corporation, desiring to temporarily occupy any portion of any public street, alley or sidewalk, for the purpose of placing thereon materials or rubbish, from building operations or for excavation for any area under a sidewalk, or for any purpose whatever in connection with the erection, removal, alteration or repair of any building or other structure, shall apply to the Street Commissioner for a permit for the temporary occupation aforesaid, and it shall be unlawful to occupy or obstruct any street, alley or sidewalk as aforesaid without a permit from the Street Commissioner, which permit shall only be issued by the Street Commissioner, upon the presentation of a building permit from the Commissioner of Public Buildings, authorizing the work which is to be done, and the City Treasurer's receipt that the applicant has deposited with the City Treasurer the sum of fifty dollars, without regard to the number of permits, as a special fund, to be used by the Street Commissioner, to defray expenses by reason of a failure of the person, firm or corporation to whom the permit may be issued, to keep said streets, alleys and sidewalks adjacent to the premises whereon said building operations are carried on, in a clean and orderly condition during the time for which permission for said temporary occupation is asked; and it is hereby made the duty of any person, firm or corporation carrying on any building operations to keep the streets, alleys and sidewalks adjoining the premises whereon said operations are conducted, in a clean and orderly condition during such operations, and at the expiration of the time stipulated in said permit, which shall not exceed the time stipulated in the building permit, or whenever ordered by the Street Commissioner, the person, firm or corporation to whom the permit may be issued, shall remove all materials and rubbish from the streets, alleys and sidewalks adjoining said premises and shall leave the same in a clean and orderly condition. The Street Commissioner is hereby authorized to clean the streets, alleys or sidewalks adjoining any premises whereon building operations are being carried on, whenever the same may be found in an unclean or disorderly condition, and he shall remove or reple any building materials or rubbish or obstructions which may be found outside of the spaces authorized by his permit to be occupied thereby, or within, four feet of any fire plug or electric conduit manhole, and he shall issue a voucher for the payment of the cost of such cleaning or removal, which shall be charged against and paid from the deposit hereinbefore provided.

Whenever the whole or part of said deposit shall have been expended for the purpose herein described, the Street Commissioner shall notify said person, firm or corporation to whom the permit may be issued to pay so much money into the City Treasurer as will bring the deposit again up to the amount hereinbefore re-

quired, and in the event of the failure of said depositor to deposit such additional sum, said Street Commissioner shall revoke said permit, and it shall be unlawful to occupy any of the aforesaid streets, alleys or sidewalks with materials, dirt or rubbish after the revocation of said permit or to neglect or refuse to remove all materials, dirt and rubbish from said streets, alleys and sidewalks after having been notified so to do by the Street Commissioner. The extent of occupation of such street, alley or sidewalk, or part thereof for which a permit may be granted by said Street Commissioner shall be as follows:

Said permit shall not authorize the occupation of any sidewalk, street or alley, or part thereof other than that immediately in front of or in the rear of the premises of the building upon which said permit is issued. During the progress of building operations at least one-third of the sidewalk in front of the premises of the building for which such permit is granted shall be at all times kept free and unobstructed for the purpose of passage and clear of rubbish, dirt and snow. Such sidewalks must, if there are excavations on either side of same, be protected by substantial railings, which shall be built and maintained thereon so long as such excavations continue to exist, it is not intended hereby to prohibit the maintenance of a driveway for the delivery of material across such sidewalk from the curb line to the building side. It shall be permitted for the purpose of delivering materials to the basement of the buildings, to elevate such temporary sidewalks to a height not exceeding four feet above the curb level of the street, and where excavations are made under or across any sidewalk, the Street Commissioner is hereby authorized to require such elevated temporary sidewalks to be erected, so as to afford safe and convenient passage, and such elevated sidewalks shall be provided with good, substantial steps on both ends of the same, and shall have railings, as before specified, on both sides thereof. If the building to be erected is more than four stories in height, and is set at or near the street line, there shall be built over such sidewalk a roof, having a framework and covering, composed of supports and stringers of three by twelve timbers, not more than eight feet from centers, covered by two layers of two-inch plank. Said roof shall be maintained as long as material is being used or handled on said street front and above the level of such sidewalk. In all such cases such temporary sidewalks and their railings and approaches and the roofs over the same shall be made, as regards ease of approach, strength and safety, to the satisfaction of the Street Commissioner. The occupation of the street for the storage of building materials shall never exceed, in front of any one building, one-quarter of the width of the roadway of the same, and in the streets containing railroad tracks such occupation shall not exceed one-half the distance from the curbstone to such railroad tracks. The occupation of any public alley, as aforesaid, shall not exceed one-half of the width of the same. Brick, asphalt and bituminous macadam paving shall be protected with wood covering, composed of one-inch plank before any material is placed on it. Earth taken from excavations and rubbish taken from buildings must not be stored upon sidewalk or roadway of streets or alleys, and must be removed from day to day as rapidly as produced. Where dry rubbish, apt to produce dust, is being handled, it must be kept wetted down, so as to prevent it being blown about by the wind. For all buildings more than four stories in height the use of derricks set upon the sidewalks is prohibited. Materials for such buildings shall be hoisted entirely within the inclosing walls of the same. The permission to occupy streets and sidewalks for purposes of building is intended only for use in connection with the actual erection, repair, alteration or removal of buildings, and must terminate with the completion of such operation. It shall be unlawful to occupy any sidewalk or alley after the expiration of the time for which a permit has been issued by the Street Commissioner. It shall also be unlawful to occupy sidewalk, street or alley under authority of such permit for the storage of articles not intended for immediate use in connection with the operations for which such permit has been issued. Red lanterns shall be displayed and maintained during the whole of every night at each end of every pile of material in any street or alley, and at each end of every excavation. It is provided that if the written consent and a waiver of claims for damages against the City of St. Louis of the owners of the property abutting upon the site of the proposed building is first obtained and filed with the Street Commissioner, the permission to occupy the roadway may be extended beyond the limits of such building, upon the same terms and conditions as those herein fixed for the streets in front of the building sites themselves.

Whenever any person who has a deposit with the City Treasurer for the purpose of taking out permits, as herein described, desires to withdraw said deposit, he shall notify the Street Commissioner, who thereupon shall certify to the President of the Board of Public Improvements a voucher for the unexpended balance of said deposit; provided, that all streets, alleys or sidewalks have cleaned, as

required by this section, to the satisfaction of the Street Commissioner. The President of the Board of Public Improvements shall certify said voucher to the Auditor, who thereupon shall draw his warrant upon the City Treasurer in favor of said person for said amount standing to the credit of the special fund credited by the payments herein provided, and shall take his receipt in full of all claims against the city on account of said payments.

Approved March 13th, 1907.

ARTICLE VIII.

OF CITY LIGHTING AND LIGHTING PLANTS.

(ORDINANCE 22878.)

Contracts for Electric Lighting of Public Buildings.—An ordinance authorizing and directing the Board of Public Improvements to let contracts for furnishing electricity to be used in lighting designated public buildings and designating the fund out of which the cost thereof shall be paid, and repealing Ordinance 19914, approved January 16, 1900.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. The Board of Public Improvements is hereby authorized and directed to let contracts for the furnishing of electricity, in accordance with specifications on file in the office of the President of the Board of Public Improvements, to be used in lighting the public buildings of the City of St. Louis, to-wit: All fire engine houses, police stations, courthouse, old city hall building while occupied and used by the city, city hospital and buildings on city hospital grounds, insane asylum and buildings on insane asylum grounds, female hospital and buildings on female hospital grounds, poorhouse and buildings on poorhouse grounds, Four Courts and buildings on same block, new city hall, city buildings Number Twenty-three Hundred Twenty-two Clark avenue and city buildings on same lot; Forest Park buildings, including Lindell Pavilion, park department stables and observatory; water department buildings, including pumping engine houses, boiler houses, coal houses, gate houses, machine shops, blacksmith shops, warehouses and office buildings at Chain of Rocks, Bissell's Point, Baden, Compton Hill Reservoir grounds and pipe yard at Taylor avenue and Duncan avenue, Union Market and Souldard Market, Street Department buildings at Number Twenty-seven Hundred Thirty-two Arsenal street, Number Nineteen Hundred and Eleven Wash street, and Number Thirty-seven Hundred Four North Grand avenue, while occupied and used by the city; Health Department buildings Number Thirty-five Hundred Sixty-four South Broadway and Thirty-six Hundred Eighteen North Broadway, while occupied and used by the city; temporary city hospital and buildings, on temporary city hospital grounds, while occupied and used by the city; Harbor and Wharf Commissioner's Office on the Levee, workhouse, industrial school and attached buildings.

Sec. 2. Contracts let under authority of this ordinance shall be for a term of years beginning September first, Nineteen Hundred and Seven, and terminating August Thirty-first, Nineteen Hundred and Ten.

Sec. 3. The lighting herein authorized shall be executed under separate contracts for lighting the designated public buildings in the following districts, namely: District Number One, bounded by the western and northern city limits, the Mississippi river and the south line of Washington avenue, produced to the western city limits. District Number Two, bounded by the southern and western city limits, the south line of Washington avenue and the same produced to the western city limits and the Mississippi river.

Sec. 4. The unit of measurement for the electricity furnished for the lighting of the public buildings herein authorized shall be one thousand watt-hours—a watt-hour is hereby defined to be the expenditure of one watt of electric power for one hour—and the current shall be furnished at the main branch block in the buildings designated at one hundred ten volts.

Sec. 5. The amount of the bond required under all contracts let under this ordinance shall be the full estimated amount to be paid for the lighting during a period of one year.

Sec. 6. The cost of the lighting herein authorized shall be paid by the City of St. Louis out of the fund annually appropriated for lighting public buildings by general appropriation from Municipal Revenue.

Sec. 7. Ordinance 19914 is hereby repealed.

Approved March 13, 1907.

CHAPTER XIII.

JUDICIAL DEPARTMENT.

ARTICLE VIII.

JUVENILE COURT AND OFFICERS.

(ORDINANCE 22540.)

Sec. 1. Building in Connection with Juvenile Court—Detention of Juveniles—Superintendent, Matron, etc., Appointed—Duties—Salary—Bond—Requisitions—
An ordinance to provide for the renting or leasing of a building near the City Hall and Four Courts for a house of detention of juveniles in connection with the operation of the Juvenile Court.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. The Mayor and Comptroller are hereby authorized and directed to rent or lease a building in the vicinity of the City Hall or Four Courts, but outside the inclosures of any jail or police station, suitable for the detention of juveniles in connection with the operation of the Juvenile Court, at a rental not to exceed one hundred dollars per month, and for a term not to exceed five years; but said lease may be renewed, or other place rented for the purpose, from time to time, hereunder, and the building shall be known and designated the House of Detention, and said building may be altered, repaired and suitably equipped for its purpose at an outlay not to exceed three thousand dollars.

Sec. 2. When the building is obtained and its management begun hereunder, all juveniles to be committed to the care of the Sheriff, police officer or probation officer, or otherwise temporarily detained, as provided for in the act establishing Juvenile Courts, approved March twenty-third, nineteen hundred and three, may be sent to and detained at the place hereby provided for; and the detention and treatment of juveniles at such place of detention shall be subject to the control and direction of the Juvenile Court, or the Judge thereof in vacation.

Sec. 3. - The Judge of the Juvenile Court is authorized to appoint and remove, from time to time, a superintendent and a matron, as assistant, to have possession, management and control of said House of Detention, subject hereto; and it shall be the duty of the superintendent and matron, respectively, to control and to have the inmates suitably and sufficiently nourished and housed and kept in cleanly and healthful state as possible, and provided with instruction and recreation, the inmates of different sexes being taught and kept in separate quarters. The superintendent shall give bond to the City of St. Louis in the sum of one thousand dollars, and the matron in the sum of five hundred dollars, for the faithful discharge of their duties, respectively.

Sec. 4. There shall be paid to the superintendent a salary of sixty dollars per month, and to the matron a salary of thirty-five dollars per month, and a cook may be employed at a salary of twenty dollars per month; and there may be also employed by the matron, subject to the approval of the Comptroller, help from time to time, as may be found necessary, at wages for each employe not to exceed one dollar and twenty-five cents a day.

Sec. 5. The superintendent shall submit at the end of each month to the Comptroller a detailed requisition for necessary articles and supplies for the House of Detention for the succeeding month, and when approved by the Comptroller the requisitions shall be filed in the office of the Commissioner of Supplies, and the articles required duly supplied and delivered and the superintendent shall keep a full and complete account of the receipts, expenditures and disposition of all property coming into his possession.

Sec. 6. There is hereby appropriated and set apart out of municipal revenue the sum of three thousand dollars for repairs, alterations and suitable equipment, as above provided, and the further sum of six thousand dollars for the rent and maintenance of said House of Detention.

Approved July 12, 1906.

CHAPTER XIV.

LAW DEPARTMENT.

ARTICLE II.

OF CITY COUNSELOR.

(ORDINANCE 23038.)

An ordinance to amend Sections 1282, 1285, 1286, 1290, 1291 and 1296 of the Municipal Code of St. Louis in relation to the Law Department, as amended by Ordinance 20757, approved July 2, 1902, and entitled "An ordinance to amend Sections 1282, 1285, 1286, 1290, 1291 and 1296 of the Municipal Code of St. Louis in relation to the Law Department;" and to amend Sections 1277, 1280, 1292 and 1297 of the Municipal Code of St. Louis in relation to the Law Department, by striking out the same and enacting new sections in lieu thereof. Be it ordained by the Municipal Assembly of the City of St. Louis [R. C., secs. 1352, 1355, 1357, 1360, 1361, 1365, 1366, 1367, 1371, 1372], as follows:

Section 1. Sections 1282, 1285, 1286, 1290, 1291 and 1296 of the Municipal Code or St. Louis, as amended by Ordinance 20757, approved July 2, 1902, and entitled "An ordinance to amend Sections 1282, 1285, 1286, 1290, 1291 and 1296 of the Municipal Code of St. Louis in relation to the Law Department," and Sections 1277, 1280, 1292 and 1297 of the Municipal Code of St. Louis relating to the Law Department, are hereby amended by striking out the same and inserting in lieu thereof the following: Section 1282: In addition to the qualifications prescribed by Section Ten of Article Four of the Charter, the Associate City Counselor shall have been licensed to practice law in the courts of this State at least eight years previous to his appointment; the Second Associate City Counselor shall have been licensed to practice law in the courts of this State at least six years previous to his appointment; and the Assistant City Counselor shall have been licensed to practice law in the courts of this State at least five years previous to his appointment. Section 1285: The City Counselor shall, with the approval of the Mayor, appoint a Chief Clerk, four Clerks and two Stenographers, who shall hold their respective offices at the pleasure of the City Counselor. Section 1286: In addition to the qualifications prescribed by Section Ten of Article Four of the Charter, the Clerks and the Stenographers shall be qualified voters of the City. Section 1290: The Assistant City Counselor shall receive a salary of Twenty-five Hundred Dollars per annum, payable monthly. Section 1291: The Chief Clerk shall receive a salary of One Hundred and Fifty Dollars per month; each of the clerks shall receive a salary of One Hundred Dollars per month and Twenty-five Dollars per month for expenses in the discharge of duties that may be assigned to him, and said salary and expense money shall be paid monthly. Section 1292: Each of the Stenographers shall receive a salary of One Hundred Dollars per month, payable monthly. Section 1296: It shall be the duty of the Chief Clerk and of the Clerks to keep a record of all cases pending in any of the courts, showing the proceedings therein, both in court and before commissioners, write the reports in condemnation and change of grade proceedings, prepare the final judgments therein, make investigation of facts and collect evidence in cases in which the city is a party, make preparation thereof for trial, keep suitable indexes, prepare the oaths of commissioners in street opening proceedings, keep a record of the attendance of such commissioners, read proof on printed briefs, advertisements of benefit districts in street opening proceedings and other necessary printed matter, answer inquiries of members of the Municipal Assembly and of other interested parties respecting the progress of street openings, procure the investigation of titles and the preparation of suitable plats and blue prints in street opening proceedings, keep a ledger of moneys appropriated for the department and vouchered out, and any other necessary accounts, prepare daily lists of the court entries applicable to any pending litigation in which the City of St. Louis or any of its officials is interested, make lists of assignments and settings of cases, make preliminary examinations of all bonds and contracts which are to be submitted to the department, attend to telephone, run errands, assist in the investigation of any question of law or of fact submitted to the department, assist in the preparation of briefs, motions, pleadings, bills of exceptions, and other legal papers and documents, and perform all such other duties as may be assigned to them by the City Counselor. Section 1297: The Stenographers shall perform all services usually incident to such positions, and shall also perform such other duties as may be required by the City Counselor.

Approved April 1st, 1907.

CHAPTER XV.

LEGISLATIVE DEPARTMENT.

ARTICLE II.

OF ORDINANCES.

(ORDINANCE 22594.)

The Revised Code.—An ordinance in relation to "The Revised Code of St. Louis" and making reference to sections therein by number sufficient. [R. C., sec. 1414.]

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. In all official reference to any provision or provisions of the general ordinances, embodied in "The Revised Code of St. Louis," after said Code shall have been adopted legally, as provided in Ordinance Number Twenty-two Thousand and Forty-six, approved June Twentieth, Nineteen Hundred and Five, it shall be sufficient to refer to said provision or provisions by section number, as the reference may require, of "The Revised Code of St. Louis."

Approved October 15th, 1906.

CHAPTER XVIII.

MISDEMEANORS.

ARTICLE II.

OFFENSES AFFECTING PUBLIC ORDER AND PEACE.

(ORDINANCE 22564.)

Throwing Confetti, Flour, etc.—An ordinance to amend Chapter Eighteen of the Municipal Code by adding a new section, to be known as Section Number Fourteen Hundred and Fifty-nine A. [Rev. Code, sec. 1537a.]

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Chapter Eighteen of the Municipal Code is hereby amended by adding a new section, to be known as Section Fourteen Hundred and Fifty-nine A [R. C., sec. 1537a], as follows:

Sec. 1459a. Any person who, in this city, shall on the public streets or highways or in the public parks, or other places where the public congregate, toss at or throw upon any one any quantities of flour or confetti, or any other substance, shall be deemed guilty of a misdemeanor, and on conviction thereof, before either of the Police Justices of this city, shall be fined not less than Five Dollars nor more than Twenty-five Dollars for each offense.

Approved Oct. 2, 1906.

CHAPTER XXII.

PLUMBING AND DRAINLAYING.

(ORDINANCE 23007.)

Plumbers.—An ordinance to promote the public health; to create a Board of Examiners of Plumbers; to define the powers and duties of said board; to fix their term of office and compensation; to require the examination and registration of plumbers, and prescribing penalties for the violation of the ordinances relating to plumbing; to amend Sections Sixteen Hundred and Eighty-nine and Sixteen Hundred and Ninety-seven of Chapter Twenty-two of the Municipal Code. [R. C., secs. 1788 and 1796.]

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Board of Examiners of Plumbers: There is hereby created a Board of Examiners of Plumbers. The Mayor shall appoint one master or employing plumber and one journeyman plumber, each of whom shall be a citizen of the United States and the State of Missouri, and a resident of the City of St. Louis for at least three years next before his appointment, and who shall have been actively engaged at the trade or business of plumbing for not less than five years, which two members, together with the Supervisor of Plumbing, who shall be chairman ex-officio, shall constitute the said Board of Examiners of Plumbers.

Sec. 2. Term of office and compensation. The members of the Board of Examiners of Plumbers shall hold their office for the term of four years and until their successors are duly appointed and qualified. They shall, except the Supervisor of Plumbing, receive a salary of Twenty-five Dollars each per month, payable monthly.

Sec. 3. Board to adopt rules, and etc. It shall be the duty of the Mayor to provide suitable quarters for the use of said board, and within ten days after this bill becomes an ordinance the Mayor shall notify said board to meet and organize, and when so notified said board shall meet, organize and adopt rules to carry into effect the provisions of this ordinance, and designate the time of meeting for the examination of applicants for plumbing license. Said board shall meet once each month, or oftener, as necessity requires, for the examination of any applicant or applicants for license as plumbers, or to hear and determine any charges which may be made against any master or journeyman plumber, or for the transaction of any other business by the board.

Sec. 4. Secretary, duties. The clerk to the Supervisor of Plumbing shall be secretary of the Board of Examiners of Plumbers, and shall be required to execute a bond to the City of St. Louis in the sum of One Thousand Dollars, to be approved by the Mayor. He shall keep a full and complete record of the proceedings and acts of said board; he shall register in a book to be kept by him for that purpose the name and residence and place of business of every licensed person, firm or corporation engaged in or working at the business of plumbing in the City of St. Louis; he shall provide all applicants for license application blanks and shall receive and file the same with the board when filled out by the applicant. He shall account to the board for all moneys received by him as secretary thereof.

Sec. 5. Qualifications of licensees, etc. Upon satisfactory proof of the qualifications and fitness of the applicant for plumbing license, the Board of Examiners of Plumbers shall thereupon issue to such applicant a certificate of qualification, which shall entitle the person named therein to engage in or work at the business of plumbing, as master or employing plumber or journeyman plumber, for the period of one year. No person shall be entitled to obtain from said board a certificate of qualification as master or employing plumber or as journeyman plumber, except as in this ordinance otherwise provided, who shall not have first passed a satisfactory examination before said board as to his knowledge, experience and skill of practical plumbing, house-draining and plumbing ventilation.

Sec. 6. Plumbers required to register. No person, firm or corporation shall engage in or work at the business of plumbing in the City of St. Louis without first registering his name, place of business and residence with the Secretary of the Board of Examiners of Plumbers. Every such person, firm or corporation so registered shall notify the Supervisor of Plumbing of any changes in his residence or place of business within ten days after the same shall have been made.

Sec. 7. Plumbers licensed by other cities in this state. Whenever any person, firm or corporation shall have obtained a license as master or employing plumber or as a journeyman plumber from the Board of Examiners of Plumbers of any other city within this state, and desiring to engage in the business of plumbing in the City of St. Louis, upon presentation of such license the Board of Examiners of Plumbers shall issue such person, firm or corporation a certificate authorizing the holder thereof to engage in or work at the business of plumbing in the City of St. Louis.

Sec. 8. Examination fee. The examination fee for license as master or employing plumber or as journeyman plumber shall be One Dollar, which fee shall be paid to the secretary of said board, when the applicant for a license files his application for examination. All fees so paid to the secretary shall be paid by him to the Treasurer of the City of St. Louis. Each license issued by said board shall be renewed annually upon the payment to the secretary of said board of a fee of One Dollar.

Sec. 9. Power to revoke license. The board shall have power to revoke any license issued by it upon satisfactory proof that the holder of said license has violated any of the provisions of this ordinance, relating to the examination of plumbers, or for the violation of any rule of said board, adopted for the purpose of carrying out the provisions of this ordinance, or for the willful violation of any of the ordinances relating to plumbing, and if any such license shall be revoked, the same shall not be reissued within three months thereafter.

Sec. 10. Penalty for violating ordinances. Any person, firm or corporation or the agent or officer of any such person, firm or corporation, who shall engage in or work at the business of plumbing in the City of St. Louis, except apprentices working for duly licensed plumbers, without first having been duly licensed as required by the provisions of this ordinance, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than Ten Dollars nor more than One Hundred Dollars for each offense.

Sec. 11. Section 1689 amended. Section 1689 of Chapter Twenty-two of the Municipal Code is hereby amended by striking out of the fourth line thereof the words "plumbing or" and by striking out of the sixth line thereof the words "plumbing or," so that said section, when amended, shall read as follows: "Section 1689. Drain-layers to be registered. Said Board of Public Improvements is hereby authorized and directed to register, in a book kept for that purpose, the full name, residence and place of business of all persons, firms or corporations who may desire to engage in the business or trade of drain-laying in the city either as master or workmen, and to issue to such parties as are found competent certificates of authority to do drain-laying connected or to be connected, with the water supply or drainage system of the city; provided such persons, firm or corporations shall have fully complied with the conditions prescribed in this chapter."

Sec. 12. Section 1697 amended. Section 1697 of Chapter Twenty-two of the Municipal Code is hereby amended by striking from the second line thereof the word "plumber" and by striking from the third line thereof the words "practical plumber," and by striking out of the lines four and five of said section the words "and to show such certificate to any inspector of plumbing or policeman on demand," and inserting in lieu thereof the following words: "And it shall be the duty of every person employed or working at the trade or business of plumbing, drain-laying or sewer-building to show on demand his license or certificate to engage in such work to any inspector of plumbing or policeman," so that said section, as amended, shall read as follows: Section 1697. Drain-layers and sewer-builders. Certificates. It shall be the duty of every person employed or working at the trade or avocation of drain-layer or sewer-builder to secure a certificate [of] registration as drain-layer or sewer-builder from the Supervisor of Plumbing, and it shall be the duty of every person employed or working at the trade or business of plumbing, drain-laying or sewer-building to show on demand his license or certificate to engage in such work to any inspector of plumbing or policeman. The certificate shall specify the kind of work the person to whom it is given is authorized to do. Said certificate shall be given without charge for one year from the date thereof to all persons who furnish satisfactory evidence of their skill and experience in the kind of work the applicant desires to do. Persons to whom a certificate is refused shall have the right to appeal to the Board of Public Improvements, and in prosecuting such appeal to present oral and documentary evidence of fitness. The Board of Public Improvements may, after notice and opportunity to be heard, suspend any certificate for a definite period or cancel the same, if the party is found guilty of violating the ordinance or rules and regulations duly established, or is shown to be negligent, unskillful or unfaithful in his work, or to be a person unfit or unworthy of being trusted or employed in the work of plumbing or drain-laying. Work done by any uncertified workman, or one whose certificate has expired, been suspended or canceled, shall not be inspected and accepted. Inspectors and policemen are authorized to take up and return to the Supervisor of Plumbing any certificate found in the possession of persons other than he to whom it was issued, and inspectors shall mark certificates as expired, suspended or canceled, when directed by the Supervisor of Plumbing so to do.

Sec. 13. Appeals. First. Whenever any person shall be aggrieved by any finding or decision of the Board of Examiners of Plumbers, such person may appeal from such finding or decision to the Board of Public Improvements. Second. No such appeal shall be allowed by the Board of Public Improvements unless the appellant shall first deposit with the clerk of the Board of Examiners of Plumbers the sum of Ten Dollars, as costs of such appeal, to be taxed as hereinafter pro-

vided, and shall, within ten days after the finding or decision of the Board of Examiners of Plumbers appealed from shall have been made, file with said Board of Public Improvements his petition stating wherein he had been prejudiced or aggrieved by the finding or decision of said Board of Examiners of Plumbers. If the appellant shall prevail on appeal, his deposit of costs shall be returned to him by the clerk of the Board of Examiners of Plumbers. Third. Whenever any person shall have complied with the provisions of Clause Two of this section it shall be the duty of the Board of Public Improvements, within twenty days thereafter, to examine into and determine said appeal, and if said board be of the opinion that a correct determination of appellant's complaint can not be had without the aid or advice of the Board of Examiners of Plumbers, they shall call said Board of Examiners of Plumbers before them to aid them in determining said appeal, and said Board of Examiners of Plumbers, when notified that their aid and advice are required by the Board of Public Improvements, shall appear before said board and assist in the determination of said appeal. Fourth. The Board of Public Improvements shall certify to the Board of Examiners of Plumbers the result of its determination of all appeals, and when so certified the same shall be spread upon the records of the Board of Examiners of Plumbers, and said board shall be governed by and forthwith make all necessary orders to give full force and effect to the decision of said Board of Public Improvements.

Approved April 1, 1907.

CHAPTER XXII-A.

PUBLIC BATHS AND PLAY-GROUNDS—PUBLIC RECREATION COMMISSIONER.

(ORDINANCE 22869.)

Public Recreation Commission.—An ordinance to provide for the management, direction and care of all public play grounds, public baths and public recreation buildings, and to provide a commission for that purpose to be known as the public recreation commission.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. The management, direction and care of all public play grounds, public baths and public recreation buildings now existing, or hereafter established or erected, in the City of St. Louis, shall be vested in a commission of five members. The Park Commissioner of the City of St. Louis shall be, ex-officio, a member of and the chairman of said Commission. The four remaining members of the Commission shall be citizens and residents of the City of St. Louis, and shall serve without compensation, and shall be appointed as follows: Within thirty days after the approval of this ordinance the Mayor shall appoint four Commissioners as aforesaid, one to serve until December thirty-first, nineteen hundred and seven; one to serve until December thirty-first, nineteen hundred and eight; one to serve until December thirty-first, nineteen hundred and nine, and one until December thirty-first, nineteen hundred and ten, and on the expiration of the above term of offices, the Mayor shall make appointments to fill vacancies as they occur, and the Commissioners so appointed shall serve for a term of four years. The members of the said commission shall elect one of their number to act as Vice Chairman. The commission so constituted shall be designated and known as the Public Recreation Commission.

Sec. 2. The Commission may appoint, by and with the approval of the Mayor, the following officers and employees: First. A Secretary, who shall act as Secretary of said Commission and as General Superintendent of the work of the Public Recreation Commission, at a compensation not to exceed One Hundred and Fifty Dollars per month. Second. A General Director of Athletics, at a salary not to exceed One Hundred Dollars per month. Said General Director of Athletics shall be a qualified voter of the City of St. Louis and shall have been a resident of said city at least two years next preceding his appointment. Third. A Clerk, at a salary not to exceed Seventy-five dollars per month. Fourth. A Director for each play ground or recreation building at a salary not to exceed Seventy-five Dollars per month. Fifth. Instructors for play grounds or recreation buildings or baths, who, when working half days, shall receive salaries not exceeding Forty-five Dollars per month. Working whole days, salaries not exceeding Seventy-five Dollars per month. Sixth. Janitors, custodians and matrons

of play grounds, baths or buildings, who shall receive salaries not exceeding Sixty Dollars per month. Seventh. In addition to the officers and employes herein specified, the Public Recreation Commission may employ such teams, carts, engineers, mechanics, laborers and other employes as may be required for the work of the Commission. The Public Recreation Commission shall have power to make all needful rules and regulations relating to the conduct and use of said play grounds, baths and recreation buildings. All payrolls and requisitions for supplies or repairs for said play grounds, baths and recreation buildings shall be signed by the Chairman and Vice Chairman of the Public Recreation Commission.

Sec. 3. As soon as the Public Recreation Commission shall have been appointed and organized, the Public Baths Commission shall turn over to it the management of the public play ground known as the Mullanphy Play Ground, situated at the southwest corner of Tenth and Mullanphy streets, heretofore conducted and operated by said Public Baths Commission under authority of Ordinance Number 21541, approved August 19, 1904, and thereupon said Public Baths Commission shall be relieved and discharged from the duties imposed upon it by said ordinance above mentioned. And the Park Commission of the City of St. Louis shall turn over to the Public Recreation Commission the Model Play Ground and Nursery heretofore conducted and operated under authority of Ordinance Number 21796, and thereupon the Park Commissioner shall be discharged from the duties imposed upon him under said ordinance.

Approved March 11th, 1907.

CHAPTER XXIII.

PUBLIC CARRIERS AND LICENSING OF VEHICLES.

ARTICLE II.

RATES OF LICENSES.

(ORDINANCE 22899.)

An ordinance to amend Article Two of Chapter Twenty-three of the Municipal Code (in relation to rates of licenses and regulation for vehicles), by striking out Sections 1710 [R. C., sec. 1814], 1714 [R. C., sec. 1818], 1718 (as amended by Ordinance Number 22673) [R. C., sec. 1822], and 1726 [R. C., sec. 1830], and by substituting and inserting in lieu thereof new sections bearing the same numbers; and also by adding a new section to be known as Section 1739A.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Article Two of Chapter Twenty-three of the Municipal Code is hereby amended by striking out Sections 1710, 1714 and 1718 (as amended by Ordinance Number 22673) and 1726, and by substituting and inserting in lieu thereof new sections, bearing the same numbers, as follows:

Sec. 1710. [R. C., sec. 1814.] **Registered Number, How Kept—Penalties.**—There shall be placed and kept conspicuously to view on every vehicle mentioned in this article, the registered number of such vehicle, so that the same can easily be read from the sidewalk. Such numbers shall be in plain, distinct and legible figures, each plate to be not less than one, two or three inches in width, and placed on each vehicle in the following manner: On drays and carts, the number shall be cast on metallic plates and placed on the outer side of the right shaft three inches in front of the body or bed of the cart or the dray; on wagons, the number shall be cast on metallic plates, and placed on the hind axle, or, where a body is used on such wagons, said numbers shall be placed on the right outer side thereof; on baggage wagons and furniture cars, the number shall be cast or painted on metallic plates and placed on the right outer side of the body; on hackney carriages and cabs that occupy stands, the number shall be painted on the outer glass of the lamps in red color not less than two inches in length, and on omnibuses, the number shall be placed on some conspicuous place on the right outer side of the body thereof, so that it can be easily read from the sidewalk; and on private carriages, barouches and buggies, and on vehicles kept by livery stables for private orders, the numbers shall be cast or painted on neat metallic plates and placed upon said vehicles upon the spring bar or foot board or rear end of said vehicles, or owners of vehicles so desiring it may place the number plate on the outer side of the trace of the off horse, not more than ten inches from the collar of the horse, the same to be kept conspicuously to view. Painting or cover-

ing over the plates, or placing the plate upon any other vehicle than the one for which the same was issued, except as hereinafter provided, will be deemed a misdemeanor, and upon conviction the owner of the vehicle shall be fined as provided in Section Seventeen Hundred and Twenty-seven. A copy of this section shall be furnished by the license commissioner to each and every person taking out a license under the provisions of this article; provided, any person or persons who shall be the owner or owners of more than one vehicle belonging to either class aforesaid and who shall use but one of said vehicles at any one time upon the streets of the city, and who shall have complied with the provisions of this article, and in accordance therewith paid his license under said classification, shall be permitted to place the number of said license upon the harness of the horse or horses intended to be used in connection with said vehicle, and a registered number of a higher grade may be used on or for a vehicle taxed for a less amount by the same person; and provided, further, that all vehicles kept at hotels for the use of hotel patrons shall be exempt from the provisions of this section; and that all vehicles belonging to the City of St. Louis or claimed as exempt from license by reason of being in the service of the City, shall have the word "City" painted on both sides of the outside of the bed or body of said vehicle.

Sec. 1714. Additional Bond Required.—Whenever application is made to the License Commissioner by the owner of any baggage wagon or hackney carriage for a license, and bond shall have been given by such person as provided in the preceding section, the License Commissioner shall, before issuing the license to such person, certify to one of the Police Justices the name of the person applying for the license, the kind of the vehicle and the number thereon, and such person shall enter into additional bond with good and sufficient security to be approved by the Police Justice, in a sum not less than one hundred dollars, conditioned that he will strictly observe and abide by all requirements, provisions and penalties of this article, and the Police Justice after approval thereof shall transmit said bond to the License Commissioner, who shall file the same in his office, whereupon the License Commissioner may issue the license to such person.—(a.)

(a) [Note.] *This section was repealed by a former ordinance: see note to sec. Rev. Code, sec. 1818.*

Sec. 1718. [R. C., sec. 1822.] Vehicles—What Lights to be Exposed On. Every hackney carriage, cab or cabriolet, when driven in the night, shall have fixed on some conspicuous part of the outer side thereof two lighted lamps, with plain glass front and sides, on which shall be painted in red and legible figures, at least one inch long, the registry number thereof. All omnibuses when driven in the night shall have lighted lamps or candles inside thereof, with number of said omnibus in front of said lamp or light. All wagons, trucks, automobiles, bicycles and all other wheeled vehicles, except as below specified, while in use on the streets at night, shall display one or more lights or lanterns. All trucks, wagons or other vehicles intended for heavy hauling, and whose ordinary use is during the daylight hours, shall, while in use on the streets at night, display one or more lights between the hours of eight p. m. and five a. m. A fine of not less than five nor more than twenty-five dollars shall be assessed for a violation of any of the provisions of this section.

Sec. 1726. [R. C., sec. 1830.] Posting Rates in Carriages, Etc. The owner or driver of any hackney carriage, or other vehicle used for the transportation of persons for hire, shall keep on the inside of each carriage or vehicle hung up in a conspicuous and prominent manner so as to be easily seen and read, a printed copy of the rates of established fare by this article. Said copy shall be printed in black ink on thick white card paper not less than ten inches square, and the type used for printing said rates shall be roman type not less in size than that known as double primer, and passengers or other persons employing such carriage or other vehicle shall have the right to examine such copy before paying their fares.

Said cards to be furnished by the License Commissioner; provided, that the provisions of this section shall not apply to private carriages or to carriages owned and used by livery stables.

Sec. 2. Hackney Carriage Defined.—Article Two of Chapter Twenty-three of the Municipal Code is hereby further amended by adding thereto a new section to be known as Section 1739 A [R. C., sec. 1843a], as follows: Section 1739 A. Wherever the term hackney carriage is used in the preceding sections it shall be understood to mean a carriage that stands on the public streets or at public hack stands, soliciting public patronage, and it shall not be understood to mean a carriage kept by a livery firm for private use or for private orders only.

Approved March 13th, 1907.

(ORDINANCE 22673.)

Vehicles—Signal Lights.—An ordinance to amend Section 1718 of the Municipal Code of the City of St. Louis [R. C., sec. 1822] in relation to signal lights on vehicles.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Amend Section 1718 of the Municipal Code [R. C., sec. 1822] by striking out said section and inserting in lieu thereof the following:

Sec. 1718. Vehicles—What Lights to be Exposed. On every hackney carriage, cab or cabriolet, when driven in the night, shall have [be] fixed on some conspicuous part of the outer side thereof two lighted lamps, with plain glass front and sides, on which shall be painted in red and legible figures, at least one inch long, the registry number thereof. All omnibuses, when driven in the night, shall have lighted lamps or candles inside thereof, with number of said omnibus in front of said lamp or light. All wagons, trucks, automobiles, bicycles and all other wheeled vehicles, except as below specified, while in use on the streets at night, shall display one or more lights or lanterns.

All trucks, wagons or other vehicles intended for heavy hauling, and whose ordinary use is during the daylight hours, shall, while in use on the streets at night, display one or more lights between the hours of eight p. m. and five a. m.

A fine of not less than five nor more than twenty-five dollars shall be assessed for a violation of any of the provisions of this section.

Approved November 15, 1906.

CHAPTER XXVII.

RECORDER OF DEEDS.

(ORDINANCE 22883.)

Recorder of Deeds—Employees.—An ordinance to repeal Ordinance Number 21569, entitled "An ordinance to repeal Sections 1937 and 1938 of the Municipal Code of St. Louis, and to enact two new sections in lieu thereof, to be known as Sections 1937 [R. C., sec. 2054], and 1938 [R. C., sec. 2055], respectively, in relation to the Recorder of Deeds, approved September 26, 1904, also Ordinance 15107, entitled "An ordinance amendatory of Chapter Thirty-five of an ordinance in revision of the ordinances of the City of St. Louis and to establish new ordinance provisions for the government of said City, approved April 12, 1887, as amended by Ordinance Number 14341, approved March 6, 1888, in relation to the Recorder of Deeds, approved June 26, 1889, and also Sections 1940 of the Municipal Code of St. Louis, and to enact in lieu thereof two new sections to be known as Sections 1937 and 1938, respectively, in relation to the Recorder of Deeds.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Ordinance Number 21569, entitled "An ordinance to repeal Sections 1937 and 1938 of the Municipal Code of St. Louis, and to enact two new sections in lieu thereof to be known as Sections 1937 and 1938, respectively, in relation to the Recorder of Deeds, approved September 26, 1904, and Ordinance Number 15107, entitled "An ordinance amendatory of Chapter Thirty-five of an ordinance in revision of ordinances of the City of St. Louis, and to establish new ordinance provisions for the government of said City, approved April Twelfth, 1887, as amended by Ordinance 14341, approved March 6, 1888, in relation to the Recorder of Deeds, approved June 26, 1889, and section 1940 of the Municipal Code of St. Louis are hereby repealed and the following two new sections are hereby enacted in lieu thereof, to be known as Sections 1937 and 1938, respectively.

Sec. 1937. [R. C., sec. 2054.] The Recorder shall receive a salary of Four Thousand Dollars per annum, he shall collect all fees as prescribed by law, and pay the same into the City Treasury daily. He is authorized to appoint the following deputies, clerks and assistants: One Chief Deputy and six deputies, one of whom shall be known as releasing deputy; one marriage license clerk, one assistant marriage license clerk; each of the above employes shall be empowered to administer oaths; one superintendent of index, folio department, one competent draughtsman, eight comparers, two indexers, one delivery clerk, two janitors, one

watchman of records; one marriage indexer, who shall be a competent stenographer, and such recording clerks in folio department as the business of the department may require.

Sec. 1938. The above-named employes shall receive in full payment for their services the following salaries: The chief deputy two hundred dollars per month; the deputies each one hundred and twenty-five dollars per month; the superintendent of index and folio department one hundred dollars per month; the draughtsman one hundred dollars per month; the comparers each ninety dollars per month; the indexers each one hundred dollars per month; the delivery clerk seventy-five dollars per month; the janitors each fifty dollars per month; the watchman of records fifty dollars per month; the marriage license clerk one hundred dollars per month; the assistant marriage license clerk seventy-five dollars per month; the marriage indexer seventy-five dollars per month; the recording clerk shall be paid at the rate of five cents per folio of one hundred words. The number of recording clerks shall not exceed ten unless the increase of business of the office renders additional recording clerks indispensable, and all recorder clerks in excess of ten shall be appointed only with the approval of the Mayor.

Approved March 13th, 1907.

CHAPTER XXIX.

OF ASSESSMENT OF PROPERTY.

ARTICLE I.

BOARD OF ASSESSORS.

(ORDINANCE 22930.)

Assessment Districts.—An ordinance to amend Sections 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976 and 1977, of the Municipal Code of the City of St. Louis [R. C., secs. 2085 to 2094], in relation to assessment districts.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Sections 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976 and 1977, of the Municipal Code are hereby amended by striking out said sections and inserting in lieu thereof the following:

Sec. 1968. First District. Shall embrace all that territory bounded on the north by Cherokee street from the Mississippi river to Grand avenue, and McDonald avenue from Grand avenue to Morganford road and Fyler avenue from Morganford road to center line of River des Peres and Piccadilly avenue from center line of River des Peres to City Limits of Eighteen Hundred and Seventy-six. East by the Mississippi river and south and west by City Limits of Eighteen Hundred and Seventy-six.

Sec. 1969. Second District. Bounded on the north by Trudeau street and North Trudeau street from Mississippi river to Broadway and Shenandoah avenue from Broadway to Tower Grove avenue, thence south along east line of Tower Grove avenue to south line of Magnolia avenue; thence west along Magnolia avenue to King's Highway boulevard, thence south along King's Highway boulevard to Fyler avenue; on the south by the north boundary of the First District from Mississippi river to King's Highway boulevard; on the east by Mississippi river.

Sec. 1970. Third District. Bounded on the south by the north boundary of the Second District, on the north by Miller street from Mississippi river to Broadway and Park avenue from Broadway to west line of Tower Grove avenue, thence north along west line of Tower Grove avenue to Manchester avenue, thence west along Manchester avenue to King's Highway boulevard, west by King's Highway boulevard, east by the Mississippi river.

Sec. 1971. Fourth District. Bounded on the south by north boundary of the Third District, on the north by Market street from Mississippi river to junction of Market street with Laclede avenue, thence west along Laclede avenue to Taylor avenue, west by Taylor avenue and east by Mississippi river.

Sec. 1972. Fifth District. Bounded south by north boundary of Fourth District, on the north by Lucas avenue from Mississippi river to Grand avenue and Delmar boulevard from Grand avenue to Taylor avenue, on the east by Mississippi river, on the west by Taylor avenue.

Sec. 1973. Sixth District. Bounded on the south by north boundary of Fifth District, on the north by Mullanphy street from Mississippi river to Broadway and Cass avenue from Broadway west to its junction with Easton avenue, thence west along Easton avenue to Taylor avenue, on the east by Mississippi river, on the west by Taylor avenue.

Sec. 1974. Seventh District. Bounded on the south by north boundary of Sixth District, on the north by St. Louis avenue from Mississippi river to Tenth street, Hebert street from Tenth street to Prairie avenue and Ashland avenue from Prairie avenue to Taylor avenue, on the east by Mississippi river, on the west by Taylor avenue.

Sec. 1975. Eighth District. Bounded on the south by north boundary of Seventh District and Natural Bridge road from Taylor avenue to City Limits of Eighteen Hundred and Seventy-six, on the east by Mississippi river, on the north and west by City Limits of Eighteen Hundred and Seventy-six.

Sec. 1976. Ninth District. Bounded on the north by Natural Bridge road from Taylor avenue to City Limits of Eighteen Hundred and Seventy-six, east by Taylor avenue from center line of Lewis place to Natural Bridge road, on the south by center line of Lewis place from Taylor avenue to Walton avenue and Fountain avenue from Walton avenue to King's Highway boulevard, Cabanne avenue from King's Highway boulevard to Union boulevard, Maple avenue from Union boulevard to City Limits of Eighteen Hundred and Seventy-six, and west by City Limits of Eighteen Hundred and Seventy-six.

Sec. 1977. Tenth District. Bounded on north by south boundary of Ninth District, east by west boundaries of Districts Two, Three, Four, Five and Six; south by north boundary of First District from King's Highway boulevard to City Limits of Eighteen Hundred and Seventy-six, and west by City Limits of Eighteen Hundred and Seventy-six.

Approved March 21st, 1907.

CHAPTER XXXI.

SUBJECTS AND OBJECTS OF LICENSES.

ARTICLE IV.

OF DRAMSHOPS.

(ORDINANCE 22868.)

Dramshops—Saloons Near Certain Parks Prohibited.—An ordinance to repeal Section 2037 of the Municipal Code of the City of St. Louis, relating to the establishment and location of saloons, and to enact in lieu thereof a new section, to be known as Section 2037.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section 2037 of the Municipal Code of the City of St. Louis is hereby repealed.

Sec. 2. The following section, to be known as Section 2037, is hereby enacted in lieu of Section 2037, hereinbefore repealed. Said new section to read as follows:

Sec. 2037. No saloon shall hereafter be established, opened or located on any lot of ground, or in any building within four hundred feet of Lafayette, Tower Grove, O'Fallon, Carondelet and Forest Parks; provided, however, that this provision shall not apply to hotels or apartment house buildings of not less than two hundred and fifty rooms, which buildings are so constructed as to be buildings of the first class, as defined by the building laws of the City of St. Louis.

Approved March 11, 1907.

ARTICLE VII.

HOTELS AND BOARDING HOUSES.

(ORDINANCE 22573.)

Hotel License.—An ordinance to amend Section 2054 of the Municipal Code of St. Louis [R. C., sec. 2174], in relation to the licenses of Hotels and Boarding Houses.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section 2054 of the Municipal Code [R. C., sec. 2174] of St. Louis is hereby amended by striking out said section and substituting and inserting a new section in lieu thereof, to be known by the same number, so that the section as amended shall read as follows:

Sec. 2054. There shall be levied and collected for every hotel or boarding house the sum of fifty cents for each and every room in such house, which has been constructed or intended to be used as bedrooms or parlors, the payment of which amount shall entitle such hotel or boarding house to a license for one year, and no license shall be issued for a less term than one year, said license in each case to run from the first day of February of such year.

Approved Oct. 2, 1906.

ARTICLE VIII.

HOUSE AND REAL ESTATE AGENTS.

(ORDINANCE 22597.)

Real Estate Agents' Licenses.—An ordinance to amend Section Number 2058 of the Municipal Code of St. Louis [R. C., sec. 2178], in relation to real estate agents' and brokers' licenses.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section number 2058 of the Municipal Code of St. Louis, in relation to real estate agents' and brokers' licenses, is hereby amended by striking out said section and substituting and inserting a new section in lieu thereof, to be known by the same number, so that said section, as amended, shall read as follows:

Sec. 2058. Every person or firm, composed of one or more persons, engaged in the business defined in the foregoing sections shall pay an annual license of twenty-five dollars, which shall be payable before any such person or firm shall be permitted to transact any business; and if such person or persons fail to pay said license, then he or they shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not less than one hundred dollars nor more than two hundred dollars, said license in each case to run from the first day of May of such year.

Approved October 15th, 1906.

ARTICLE XII.

OF ORDINARIES OR RESTAURANTS.

(ORDINANCE 22596.)

Ordinaries and Restaurants.—An ordinance to amend Section 2086 of the Municipal Code [R. C., secs. 2207, 2208] of St. Louis, as amended by ordinance number 20528, in relation to ordinaries.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section 2086 of the Municipal Code of St. Louis, as amended by ordinance number 20528 [R. C., secs. 2207, 2208], is hereby amended by striking out said section and substituting and inserting a new section in lieu thereof to be known by the same number, so that said section, as amended, shall read as follows:

Sec. 2086. Ordinaries or restaurants are hereby divided into four classes: Ordinaries or restaurants of the first class are those with a seating capacity for one hundred or more patrons or guests; ordinaries or restaurants of the second class are those with a seating capacity for more than fifty and less than one hundred patrons or guests; ordinaries or restaurants of the third class are those with a capacity for seating twenty or less than fifty patrons or guests; ordinaries or restaurants of the fourth class are those with a capacity for seating twenty or less patrons or guests. On all ordinaries or restaurants of the first class there shall be levied and collected as a license the sum of fifty dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the first class for a term of six months. On all ordinaries or restaurants of the second class there shall be levied and collected as a license the sum of thirty dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the second class for a term

of six months. On all ordinaries or restaurants of the third class there shall be levied and collected as a license the sum of ten dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the third class for a term of six months, and on all ordinaries or restaurants of the fourth class there shall be levied and collected as a license the sum of five dollars, which license shall authorize the party therein named to carry on the business of an ordinary or restaurant of the fourth class for a term of six months, said license in each case to run from the first day of May or November of such year. Any person or persons, firm or corporation, who shall carry on the business of an ordinary or restaurant of any said classes without first obtaining a license therefor from the License Collector, or who, under a license for an ordinary or restaurant of one class, shall carry on the business of an ordinary or restaurant of a higher class, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Approved October 15, 1906.

ARTICLE XIV.

OF PEDDELS AND HAWKERS.

(ORDINANCE 22574.)

Peddlers' and Hawkers' License.—An ordinance to amend Section 2100 of the Municipal Code [R. C., sec. 2222] of St. Louis, in relation to license of peddlers and hawkers.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section Number 2100 of the Municipal Code [R. C., sec. 2222] of St. Louis, in relation to license of peddlers and hawkers, is hereby amended by striking out said section and substituting and inserting a new section in lieu thereof, to be known by the same number, so that said section as amended shall read as follows:

Sec. 2100. There shall be levied and collected of every person carrying on the business of a peddler or hawker, who carries the goods he offers for sale on foot or in push cart, the sum of ten dollars, and there shall also be levied and collected of every person carrying on the business of peddler or hawker who carries the goods he offers for sale in one-horse wagon, or other vehicle, the sum of fifteen dollars, and for a two-horse wagon or other vehicle the sum of twenty-five dollars, the payment of which shall entitle such peddler or hawker to a license for a period of twelve months, and shall exempt him from the payment of a license for such vehicle. Every such license shall show the place of residence of such peddler or hawker, and such peddler or hawker shall have his name and the number of his license painted conspicuously on both sides of his wagon, or other vehicle, and shall carry such license with him and exhibit the same whenever required by any police or other officer authorized under the law or ordinance to make arrests. Any wagon peddler duly licensed under this article may have one driver to assist him, but no other assistants, while engaged in peddling or hawking, and only one person shall engage in peddling or hawking as foot peddler or with push cart under any license issued in pursuance of this article, said license to run from the first day of June of such year.

Approved October 2, 1906.

ARTICLE XV.

OF RAILWAY TICKET BROKERS.

(ORDINANCE 22600.)

Railway Ticket Brokers' Licenses.—An ordinance to amend Section Number 2111 of the Municipal Code of St. Louis [R. C., sec. 2233], in relation to licenses of railroad ticket brokers.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section Number 2111 of the Municipal Code of St. Louis [R. C., sec. 2233], is hereby amended by striking out said section and substituting and inserting a new section in lieu thereof, to be known by the same number, so that said section, as amended, shall read as follows:

Sec. 2111. There shall be levied and collected on every license granted under this article the sum of fifty dollars before the delivery thereof. Each license shall be granted for one year, and on its face shall plainly express that it will be forfeited by any violation of this article, and shall also show plainly the time when it shall expire, together with the name of the person authorized to do business under the license, as also express on its face that the license shall entitle the person named therein to carry on the business of ticket broker at the office only, said license to run from the first day of May of such year.

Approved Oct. 15th, 1906.

ARTICLE XVII.

OF STOCKYARDS, SALES STABLES AND HORSE AND CATTLE DEALERS.

(ORDINANCE 22599.)

Stock Yards License.—An ordinance amending Section Number Twenty-one Hundred and Twenty-eight of the Municipal Code of St. Louis [R. C., sec. 2250], in relation to license of stock yards.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section Number Twenty-one Hundred and Twenty-eight of the Municipal Code of St. Louis [R. C., sec. 2250], in relation to license of stock yards, is hereby amended by striking out said section and inserting in lieu thereof a new section, to be known by the same number, so that said section, as amended, shall read as follows:

Sec. 2128. The proprietor of each stock yard in the city shall pay in advance to the collector an annual city license therefor of one hundred and fifty dollars, said license to run from the first day of January of such year.

Approved October 15th, 1906.

(ORDINANCE 22598.)

Sales Stables—Licenses.—An ordinance to amend Section Number Twenty-one Hundred and Twenty-nine of the Municipal Code of St. Louis [R. C., sec. 2251], in relation to licenses for sales stables.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section Number Twenty-one Hundred and Twenty-nine of the Municipal Code of St. Louis [R. C., sec. 2251] is hereby amended by striking out said section and inserting and substituting a new section in lieu thereof, to be known by the same number, so that said section, as amended, shall read as follows:

Sec. 2129. The proprietor or keeper, or the proprietors or keepers, of each sale stable in the city shall pay, in advance, an annual license therefor of twenty-five dollars, said license to run from the first day of January of such year.

Approved October 15th, 1906.

(ORDINANCE 22601.)

License of Horse and Cattle Dealers.—An ordinance amending Section Number Twenty-one Hundred and Thirty of the Municipal Code of St. Louis, in relation to license of horse and cattle dealers.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section Number Twenty-one Hundred and Thirty of the Municipal Code of St. Louis [R. C., sec. 2252] is hereby amended by striking out said section and substituting and inserting in lieu thereof a new section to be known by the same number so that said section as amended shall read as follows:

Sec. 2130. [R. C., sec. 2252.] Each person or persons, copartnership or corporation engaged in the city in the business of horse and cattle dealer or dealers, as defined in this article, shall pay in advance an annual license therefor of twenty-five dollars, said license in each case to run from the first day of January of such year.

Approved October 15th, 1906.

ARTICLE XX.

MISCELLANEOUS PROVISIONS.

(ORDINANCE 22576.)

Licenses—Terms.—An ordinance amending Section Number Twenty-one Hundred and Forty-nine [R. C., sec. 2275] of the Municipal Code of St. Louis, in relation to term of licenses.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Section Twenty-one Hundred and Forty-nine of the Municipal Code of St. Louis [R. C., sec. 2275], in relation to term of licenses, is hereby amended by striking out said section and substituting and inserting in lieu thereof a new section, to be known by the same number, so that said section, as amended, shall read as follows:

Sec. 2149. Licenses granted under this article shall continue in force twelve months, except as otherwise provided. No license of any kind shall be issued for a shorter period than that specified in each instance in this article, except in such cases as upon full statement of the facts appear to the License Collector worthy of charitable consideration, and that the applicants are truly unable to pay license for the full period stated. In such cases the License Collector, with the approval or upon the recommendation of the Mayor, is authorized to issue license for shorter periods, not less than one month, at pro rata rates, unless otherwise therein provided licenses granted for twelve months shall be for periods beginning at the following dates: Bill Posters and Theaters, January first; Engravers and Lithographers, April first; Photographers, May first, and Mercantile Agents, July first.

Approved October 2, 1906.

CHAPTER XXXVII.

TREASURY DEPARTMENT.

ARTICLE I.

OF THE DEPARTMENT.

(ORDINANCE 22865.)

Renewal Bonds.—An ordinance authorizing the Mayor and Comptroller to issue and sell bonds of the City of St. Louis in renewal of bonds for which the City of St. Louis is liable.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. Under authority of Section Twenty-six, Article Three, of the Charter of the City of St. Louis, the Mayor and Comptroller are hereby authorized to issue, sell and deliver bonds of the City of St. Louis to an amount not exceeding two million dollars, to redeem renewal bonds amounting to two million dollars maturing June twenty-fifth, nineteen hundred and seven, which said bonds thus maturing were issued under authority of Ordinance Thirteen Thousand Nine Hundred and Thirty-two, approved March Fifteenth, eighteen hundred and eighty-seven.

Sec. 2. The bonds authorized by this ordinance and the coupons attached thereto shall be made payable to the bearer in United States gold coin in the City of New York, or, if he so elects, in the City of London, England, in pounds sterling, at the rate of four dollars eighty-six cents six and one-half mills, and at such place therein as the Mayor and Comptroller may determine. Said issue of bonds shall be dated the twenty-fifth day of June, nineteen hundred and seven, and shall consist of two thousand bonds of the par value of one thousand dollars each, and shall bear interest at a rate not to exceed four per centum per annum, payable semi-annually, and said interest shall be represented by semi-annual coupons attached to said bonds, the principal of said bonds shall be payable twenty years from date of their issue, and both principal and interest shall be payable in gold coin of the United States, of the present standard of weight and fineness, and in pounds sterling in London as above provided.

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Sec. 3. Said bonds shall be engraved and shall be signed by the Mayor, Comptroller and Treasurer of the City of St. Louis, and attested by the Register with the seal of the City of St. Louis thereto affixed, and shall in all respects be numbered and registered as other city bonds, the name of the City Treasurer may be engraved on the coupon. Said bonds shall contain a provision that they may, at the option of the holder, be exchangeable for registered bonds.

Sec. 4. The Mayor and Comptroller shall sell said bonds for the best obtainable price, either at public or private sale, as they may deem most expedient. The Comptroller of the City of St. Louis shall deliver the said bonds to the purchaser thereof on receipt of the purchase money or a certified check therefor, payable to the order of the City of St. Louis, and the proceeds of the sale of said bonds are hereby appropriated to and to be used in the payment and redemption of the principal of the two million dollars of bonds of the City of St. Louis, dated June twenty-fifth, eighteen hundred and eighty-seven, maturing June twenty-fifth, nineteen hundred and seven, and for no other purpose, and said maturing bonds when paid shall be stamped by the City Auditor as follows: This bond is paid and cancelled out of the proceeds of bonds issued and dated June twenty-fifth, nineteen hundred and seven.

Approved March 8, 1907.

CHAPTER XXXVIII.

WATER RATES DEPARTMENT.

ARTICLE I.

OF ASSESSOR AND COLLECTOR.

(ORDINANCE 23000.)

Assessor and Collector of Water Rates—Additional Clerks.—An ordinance authorizing the Assessor and Collector of Water Rates to appoint three additional clerks and two additional inspectors.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. In addition to the number of clerks and inspectors now employed in the Water Rates Department, the Assessor and Collector of Water Rates shall be empowered to appoint five additional employees, three to serve as clerks and inspectors, at ninety dollars per month salary, and two as inspectors and turn-keys at seventy-five dollars per month; salaries to be paid monthly; the above appointments to take effect in the beginning of the next fiscal year, April ninth, nineteen hundred and seven.

Approved April 1, 1907.

MISCELLANEOUS.

(ORDINANCE 22593.)

Missouri Historical Society.—An ordinance authorizing the erection in Forest Park of a building to be devoted to the purposes of preserving objects of historical archaeological interest.

Be it Ordained by the Municipal Assembly of the City of St. Louis, as follows:

Section 1. The Missouri Historical Society, a Missouri corporation, is hereby authorized to erect within Forest park in this city a building which, together with the site upon which it is located, shall be devoted to the use of this institution forever as trustee for the people of Missouri for the preservation and exhibition of objects of historical and archaeological value and interest and such other purposes as are or may become usual in institutions for the promotion of historical study, research and instruction.

Sec. 2. The location of said building shall be determined by the Board of Control hereinafter provided.

Sec. 3. Said building shall be erected subject to the following provisions: The building when completed shall be the property of the city for the uses hereinafter provided, and no other. The building, its erection and its permanent management shall be under the direction and jurisdiction of a Board of Control to consist of the President and members of the Advisory committee of the Missouri Historical Society, the Mayor, the President of the City Council, the Speaker of the House of Delegates, the Comptroller, the President of the Board of Public Improvements and the Park Commissioner of the City of St. Louis. The collection of articles of historical and archaeological interest in said building shall be kept on exhibition free of charge to the public, within reasonable hours of the day, under the reasonable rules and regulations of said Board of Control.

Approved October 12, 1906.

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TABLE OF MAYORS, ALDERMEN, DELEGATES AND
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1823 TO 1907.

NAMES OF PRESIDING OFFICERS ARE IN SMALL CAPITALS,
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TABLE OF PRESENT MUNICIPAL OFFICERS,
ELECTED AND APPOINTED.

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1823.—WILLIAM CARR LANE, Mayor.

Robert Walsh, James Loper, James Lakeman, ARCHIBALD GAMBLE, William H. Savage, Joshua Barton (died), Thomas McNight, James Kennerly, Phillip Rochelblane, Henry Von Phul, Joseph V. Garnier.

1824.—WILLIAM CARR LANE, Mayor.

Bernard Pratte, Pierre Chouteau, Sr., John L. Sutton, Joseph C. Laveille, Hugh Richards, JOHN SHACKFORD, Joseph V. Garnier, David V. Walker (died), Matthew Kerr, William K. Rule.

1825.—WILLIAM CARR LANE, Mayor.

JOSEPH CHARLESS, Sr., Phillip Rochelblane, Elisha S. Beebe, Jacob Hawken, Hugh Richards, Hubert Guion, Louis T. Honore, Pierre Chouteau, Alfred Skinner (resigned), Charles Bosseron.

1826.—WILLIAM CARR LANE, Mayor.

ARCHIBALD GAMBLE, Asa Wilgus, Thornton Grimsley, William K. Rule, Joseph C. Laveille, Thomas F. Riddick, Joseph V. Garnier, David B. Hill, Henry Von Phul.

1827.—WILLIAM CARR LANE, Mayor.

North Ward—JOHN MULLANPHY, William K. Rule, John D. Daggett.

Middle Ward—Fred L. Billon, Edw. Charless, Christopher M. Price.

South Ward—Joseph C. Laveille, John L. Sutton, David B. Hill.

1828.—WILLIAM CARR LANE, Mayor.

North Ward—George H. Kennerly, Michael Reilly, Samuel Hawken.

Middle Ward—Frederick L. Billon, Edward Charless, JOSEPH C. LAVEILLE.

South Ward—John L. Sutton, John Smith, John Smith, Jr.

1829.—DANIEL D. PAGE, Mayor.

North Ward—John Mullanphy, Michael Reilly, Jabez Warner.

Middle Ward—Edw. Charless, Thomas Cohen, JOSEPH C. LAVEILLE.

South Ward—Hubert Guion, Herman L. Hoffman, John L. Sutton.

1830.—DANIEL D. PAGE, Mayor.

North Ward—John D. Daggett, William K. Rule, Edward Dobyns.

Middle Ward—Thomas Cohen, JOSEPH C. LAVEILLE, Edward Charless.

South Ward—Elkanah English, Hubert Guion, Herman L. Hoffman.

1831.—DANIEL D. PAGE, Mayor.

North Ward—Joseph Bates (resigned), Edward Dobyns, William K. Rule (resigned), Jesse Colburn (resigned), Hugh O'Neil.

Middle Ward—Peter Ferguson, JOSEPH C. LAVEILLE, Jabez Warner.

South Ward—John Pigott, Michael Rourke, Robert Simpson.

1832.—DANIEL D. PAGE, Mayor.

North Ward—Edward Dobyns, Hugh O'Neil, Solomon P. Ketchum (resigned), Robert Moore.

Middle Ward—Peter Ferguson, JOSEPH C. LAVEILLE, Edward Charless.

South Ward—Michael Rourke (died), Robert Simpson, Cotton M. Tabor, Calvin Francis.

1833.—SAMUEL MERRY, Mayor.

(Disqualified in consequence of holding office under the general government. J. W. JOHNSTON, elected mayor in his stead.)

North Ward—Edward Dobyns, Hugh O'Neil, Jr., Robert Moore.

Middle Ward—Edw. Charless, Peter Ferguson, JOSEPH C. LAVEILLE.

South Ward—Sullivan Blood, Robert Simpson, Caleb Lockwood.

1834.—JOHN W. JOHNSTON, Mayor.

First Ward—Benjamin W. Ayres (resigned), Michael Gorman (resigned), George Morton, Benjamin W. Ayres, Wilson Primm.
 Second Ward—Horatio N. Cross, John Shannon, James P. Spencer.
 Third Ward—Thomas Andrews, John F. Darby, HUGH O'NEIL.
 Fourth Ward—Edward Dobyns, Robert N. Moore, Hugh O'Brien.

1835.—JOHN F. DARBY, Mayor.

First Ward—George Morton, Wilson Primm, John P. Reily.
 Second Ward—JOSEPH CHARLES (resigned), James J. Purdy, JAMES P. SPENCER, Joseph C. Laveille.
 Third Ward—Thornton Grimsley, Hugh O'Neil, Dunham Spalding.
 Fourth Ward—Charles Collins, John Lee (removed), Joseph Bates (resigned), Solomon P. Ketchum, Bryan Mullanphy.

1836.—JOHN F. DARBY, Mayor.

First Ward—George Morton, Wilson Primm, James J. Purdy.
 Second Ward—Thos. Cohen, Joseph C. Laveille, JAS. P. SPENCER.
 Third Ward—William Preston Clark, Thornton Grimsley, Hugh O'Neil.
 Fourth Ward—Charles Collins, Hugh O'Brien, Bryan Mullanphy.

1837.—JOHN F. DARBY, Mayor.

First Ward—WILSON PRIMM, Joseph S. Pease, Joseph W. Walsh.
 Second Ward—Thomas Cohen, David B. Hill, James P. Spencer (died), Stuart Matthews.
 Third Ward—Thomas B. Hudson, Peter Tiernan, Asa Wilgus.
 Fourth Ward—Charles Collins, Abel Rathbone Corbin, Hugh O'Brien.

1838.—WILLIAM CARR LANE, Mayor.

First Ward—Benjamin W. Ayres, Joseph S. Pease, Joseph W. Walsh.
 Second Ward—Louis V. Bogy, DAVID COONS, Stuart Matthews.
 Third Ward—Merriwether Lewis Clark, Hugh O'Neil, Peter Tiernan.
 Fourth Ward—Abel Rathbone Corbin (resigned), Hugh O'Brien, John M. Wimer, Giles A. Lindley.

1839.—WILLIAM CARR LANE, Mayor.

Aldermen:

First Ward—Benjamin W. Ayres, James G. Barry.
 Second Ward—Beverly Allen, Edward Tracy.
 Third Ward—GEORGE COOLIER, John B. Sarpy.
 Fourth Ward—John Lee, Archibald Carr.

Delegates:

First Ward—Elkanah English, Charles Coutts (resigned), William Horne, George Maguire.
 Second Ward—William Glasgow, Theodore Papin, David B. Hill.
 Third Ward—Bazil W. Alexander, Asa Wilgus, George Trask.
 Fourth Ward—George K. Budd, Abel G. Farwell, Samuel Gaty.

1840.—JOHN F. DARBY, Mayor.

Aldermen:

First Ward—James G. Barry, Benjamin W. Ayres.
 Second Ward—BEVERLY ALLEN (resigned), ADAM L. MILLS, Thomas Cohen.
 Third Ward—William Burd, Archibald E. Orme.
 Fourth Ward—Archibald Carr, Horatio N. Davis.

Delegates:

First Ward—Elkanah English, George Maguire, Hiram Shaw.
 Second Ward—Edw. Brooks, James Clemens, Stewart Matthews.
 Third Ward—Thomas Dresser, George Trask, Thomas H. West.
 Fourth Ward—George K. Budd, Samuel Gaty, David Weston.

1841.—JOHN D. DAGGETT, Mayor.

Aldermen:

First Ward—John Corcoran (resigned), James C. Lynch, Brannock Jones.
 Second Ward—B. W. Ayres, Stewart Matthews.
 Third Ward—Thomas Cohen, A. L. MILLS.
 Fourth Ward—Archibald E. Orme, James H. Lucas.
 Fifth Ward—Robert Cathcart, Samuel Gaty.

Delegates:

First Ward—Joseph M. Magehan, Daniel H. Donovan, Thomas Denny.
 Second Ward—Elkanah English, Hiram Shaw, Henry McKee (resigned), Edward Walker.
 Third Ward—Henry S. Cox, EDW. BROOKS, Henry E. Stone.
 Fourth Ward—Thomas H. West, George Trask, Ebenezer Young.
 Fifth Ward—Thomas H. Duncan, Theodore Lebeaume (resigned), A. R. Corbin, John M. Wimer.

1842.—GEORGE MAGUIRE, Mayor.

Aldermen:

First Ward—James C. Lynch, William B. Wood.
 Second Ward—JAMES G. BARRY, Nathan Ranney.
 Third Ward—Edward Brooks, ADAM L. MILLS (resigned), Adam B. Chambers.
 Fourth Ward—Archibald E. Orme, Joseph B. Crockett (resigned), B. S. Hollingsworth.
 Fifth Ward—John M. Wimer (resigned), Samuel Gaty (resigned), C. Campbell, Charles Todd.

Delegates:

First Ward—Daniel H. Donovan (resigned), Thomas Denny (resigned), Henry C. Lynch, John C. Mueller, John Stewart.
 Second Ward—Hiram Shaw, Ezra O. English, Ellis Wainwright.
 Third Ward—George K. McGunnege, Francis Jones, William H. Jones (resigned), Beriah Cleland.
 Fourth Ward—Vital M. Garesche, Louis A. Lebeaume, J. S. Wood.
 Fifth Ward—Abel R. Corbin, T. O. DUNCAN, Chas. R. Anderson.

1843.—JOHN M. WIMER, Mayor.

Aldermen:

First Ward—Matthias Steitz, John Withnell.
 Second Ward—WILSON PRIMM, Stuart Matthews (resigned), John Black.
 Third Ward—Edward Charless, Louis A. Lebeaume.
 Fourth Ward—Luther M. Kennett, John B. Camden.
 Fifth Ward—Anthony Bennett, Thomas Watson.
 Sixth Ward—Joseph S. Hull, William S. Stamps.

Delegates:

First Ward—Jacob Smith, James Caldwell.
 Second Ward—Ellis Wainwright, Charles Bobb.
 Third Ward—George K. McGunnege, Francis Jones.
 Fourth Ward—GEORGE A. HYDE, John Finney.
 Fifth Ward—Abel R. Corbin, Rufus Kayser.
 Sixth Ward—Charles R. Anderson, Jacob Tice.

1844.—BERNARD PRATTE, Mayor.

Aldermen:

First Ward—Matthias Steitz, John Withnell.
 Second Ward—John Black, Ellis Wainwright.
 Third Ward—EDWARD CHARLESS, George K. McGunnege.
 Fourth Ward—Luther M. Kennett, John B. Camden.
 Fifth Ward—Thomas Watson (resigned), Archibald Carr, J. W. Ormsbee.
 Sixth Ward—William S. Stamps, George Mead.

Delegates:

First Ward—John Corcoran, Edward Warrens.
 Second Ward—Charles Bobb, GEORGE MORTON.
 Third Ward—David Chambers, Francis Jones.
 Fourth Ward—George A. Hyde, Charles Todd.
 Fifth Ward—Samuel Knox, Charles J. Carpenter.
 Sixth Ward—James Gordon, Hugh Rose.

1845.—BERNARD PRATTE, Mayor.

Aldermen:

- First Ward—Matthias Steitz, Daniel H. Donovan.
 Second Ward—Ellis Wainwright (resigned), James G. Barry, B. W. Ayres.
 Third Ward—George K. McGunnegle, Edward Charless.
 Fourth Ward—Henry D. Bacon (resigned), Luther M. Kennett, Charles Collins,
 John B. Higdon (in lieu of Collins).
 Fifth Ward—ARCHIBALD CARR, George K. Budd.
 Sixth Ward—George Mead, John Hall.

Delegates:

- First Ward—Edward Warrens (resigned), Amadee Valle, Ezra O. English.
 Second Ward—Thomas B. Targee, Robert Holmes.
 Third Ward—Singleton H. Kimmel, William Glasgow, Sr.
 Fourth Ward—Charles Hequembourg, Isaac T. Greene (resigned), Charles M.
 Valleau.
 Fifth Ward—SAMUEL KNOX, Charles Jabine.
 Sixth Ward—Henry Loane, Nathaniel Childs, Jr.

1846.—PETER G. CAMDEN, Mayor.

Aldermen:

- First Ward—Matthias Steitz, Daniel H. Donovan (resigned), George Maguire.
 Second Ward—James G. Barry, Daniel D. Page.
 Third Ward—Edward Charless, Adam L. Mills.
 Fourth Ward—Luther M. Kennett (resigned), John B. Higdon, Stephen W.
 Adreon.
 Fifth Ward—GEORGE K. BUDD, Reuben Knox.
 Sixth Ward—John Hall, Nathaniel Childs, Sr.

Delegates:

- First Ward—A. Valle (resigned), W. Tighe, John Dunn.
 Second Ward—C. P. Morse, Robert Holmes.
 Third Ward—S. H. KIMMEL (resigned), W. Glasgow, Jr. (resigned), P. C. More-
 head, James Glasgow.
 Fourth Ward—C. HEQUEMBOURG, C. M. Valleau.
 Fifth Ward—John Whitehill, James H. White.
 Sixth Ward—Joseph S. Hull, Robert B. Bell.

1847.—BRYAN MULLANPHY, Mayor.

Aldermen:

- First Ward—GEORGE MAGUIRE, Richard S. Blannerhasset.
 Second Ward—D. D. Page (resigned), J. G. Shelton, Wilson Primm.
 Third Ward—Adam L. Mills, James Glasgow.
 Fourth Ward—Isiah Forbes, Samuel Hawken.
 Fifth Ward—Reuben Knox, L. Riggs (resigned), Louis Bach.
 Sixth Ward—Nathan Childs, Reuben B. Austin.

Delegates:

- First Ward—Jacob Smith, H. C. Lynch.
 Second Ward—J. P. Thomas, E. W. Decker (died), Louis DuBreuil.
 Third Ward—W. H. Jones, William Robb.
 Fourth Ward—G. A. MAGEHAN, J. H. Lightner.
 Fifth Ward—A. P. Ladue, Hugh Rose.
 Sixth Ward—D. W. Dixon, R. N. Moore.

1848.—JOHN M. KRUM, Mayor.

Aldermen:

- First Ward—R. S. Blannerhasset (resigned), GEORGE MAGUIRE, Edward Haren.
 Second Ward—John G. Shelton, George R. Taylor (resigned and re-elected).
 Third Ward—James Glasgow, Adam L. Mills, Daniel D. Page (to fill vacancy).
 Fourth Ward—Samuel Hawken (resigned), James H. White, Demetrius R. Ma-
 gehan.
 Fifth Ward—Louis Bach, Robt. Cathcart (vacated seat), T. J. Beirne.
 Sixth Ward—Reuben B. Austin, Isaac H. Sturgeon.

Delegates:

First Ward—HENRY C. LYNCH, A. C. Cordes.
 Second Ward—Jacob P. Thomas, Edward E. Hunter.
 Third Ward—Thomas Cohen, Charles Robb.
 Fourth Ward—William M. Morrison, Joseph F. Franklin.
 Fifth Ward—Thomas Jackson, Frederick Laumann.
 Sixth Ward—Thomas Harsant, Erastus Wells.

1849.—JAMES G. BARRY, Mayor.

Aldermen:

First Ward—GEORGE MAGUIRE, (resigned), Edward Haren (resigned), William Freund, John Dunn.
 Second Ward—William Palm, George R. Taylor.
 Third Ward—Daniel D. Page, Adam L. Mills.
 Fourth Ward—C. M. Valteau, William Robb.
 Fifth Ward—Thomas J. Beirne, J. B. Gibson.
 Sixth Ward—Henry Holmes, Isaac H. Sturgeon.

Delegates:

First Ward—H. C. Katz, William R. Price.
 Second Ward—J. P. Thomas, William Walton.
 Third Ward—E. R. Mason, FRANCIS JONES.
 Fourth Ward—R. Kayser, George W. Rucker.
 Fifth Ward—Peter Miller (died), George Bushey, Thomas Harsant.
 Sixth Ward—A. Ward (died), H. Overstolz, Willis R. Pritchard.

1850.—LUTHER M. KENNETT, Mayor.

Aldermen:

First Ward—John Dunn, R. S. Blennerhasset.
 Second Ward—William Palm, Louis DuBreuil.
 Third Ward—Joseph Charless, John J. Anderson.
 Fourth Ward—C. M. VALLEAU, John W. Rucker.
 Fifth Ward—J. B. Gibson (resigned), J. S. Freligh (resigned), Charles H. Pond, E. C. Blackburn.
 Sixth Ward—Henry Holmes, Isaac H. Sturgeon.

Delegates:

First Ward—Stephen Stock, Frederick W. Beckwith.
 Second Ward—Benjamin B. Chamberlin (died), E. B. Taylor, William Smith.
 Third Ward—William Carroll, C. Edmund Lebeaume.
 Fourth Ward—Edwin Smith, GEORGE TRASK.
 Fifth Ward—John Shore (resigned), George Bushey, C. L. Holthaus.
 Sixth Ward—Henry Overstolz, Willis R. Pritchard.

1851.—LUTHER M. KENNETT, Mayor.

Aldermen:

First Ward—John C. Degenhardt, Henry C. Lynch.
 Second Ward—William Palm, Robert Clarkson.
 Third Ward—John J. Anderson, LOUIS A. LEBEAUME.
 Fourth Ward—George W. Rucker, Edward C. Blackburn.
 Fifth Ward—Charles W. Lightner, Charles H. Pond.
 Sixth Ward—Henry Overstolz, Thomas L. Sturgeon.

Delegates:

First Ward—George Bremermann, Samuel B. Pilkington.
 Second Ward—J. T. Moore (resigned), Philip B. Reily, John McDowell.
 Third Ward—Joshua W. Owings, David R. Risley.
 Fourth Ward—RUFUS KAYSER, Benjamin C. Farrar.
 Fifth Ward—George Bushey, JAMES MCNICHOL (resigned), — Garrison.
 Sixth Ward—Daniel Crouse (died), Stewart McKee, John Brotherton.

1852.—LUTHER M. KENNETT, Mayor.

Aldermen:

First Ward—John C. Degenhardt, Henry C. Lynch.
 Second Ward—Philip B. Reily, Robert Clarkson.
 Third Ward—John J. Anderson (resigned), Louis A. Lebeaume, George K. Budd.
 Fourth Ward—George W. Rucker, EDWARD C. BLACKBURN.
 Fifth Ward—Thomas J. Beirne, Charles W. Lightner.
 Sixth Ward—Thomas L. Sturgeon, John W. Thornburgh.

Delegates:

First Ward—Samuel B. Pilkington, Frederick B. Sanguinette.
 Second Ward—C. C. Simmons, Charles Mehl (resigned), Martin Dubbs.
 Third Ward—DAVID R. RISLEY, W. Joshua Owings.
 Fourth Ward—J. K. Burtis, James Ham.
 Fifth Ward—Thomas Harsant, W. R. Pritchard.
 Sixth Ward—Daniel G. Taylor (resigned), Cyrus Spear, John Sexton, Jr.

1853.—JOHN HOW, Mayor.

Aldermen:

First Ward—John C. Degenhardt, Samuel B. Pilkington.
 Second Ward—Philip B. Reily, Cornelius Campbell.
 Third Ward—Louis A. Lebeaume (resigned), David R. Risley (resigned), William M. McPherson, Theophile Papin.
 Fourth Ward—Edward C. Blackburn, John Hartnett.
 Fifth Ward—THOMAS J. BEIRNE, Eneas McFaul.
 Sixth Ward—John W. Thornburgh, Alfred Heacock.

Delegates:

First Ward—George W. Sherrick, CHARLES W. GOTTSCHALK.
 Second Ward—Charles A. Clark, John H. Rohlf.
 Third Ward—Isaac M. Veitch, Charles H. Tillson.
 Fourth Ward—James Ham, Franklin Weston.
 Fifth Ward—Davis Moore, George Kyler.
 Sixth Ward—Charles W. Horn, James Graham.

1854.—JOHN HOW, Mayor.

Aldermen:

First Ward—S. B. Pilkington, C. W. Gottschalk.
 Second Ward—CORNELIUS CAMPBELL, Philip B. Reily.
 Third Ward—Theophile Papin, Daniel G. Taylor.
 Fourth Ward—Edward G. Blackburn, John Hartnett.
 Fifth Ward—Eneas McFaul, Norman J. Colman.
 Sixth Ward—J. W. Thornburgh, Albion T. Crow.

Delegates:

First Ward—George W. Sherrick, H. J. Hillsdorf.
 Second Ward—Charles A. Clarke, Henry Graefenkamp.
 Third Ward—Isaac M. Veitch, Charles H. Tilson.
 Fourth Ward—Franklin Weston, Joshua Houston.
 Fifth Ward—David Moore, GEORGE KYLER.
 Sixth Ward—John Sexton, Jr., John H. Niermeyer.

1855.—WASHINGTON KING, Mayor.

Aldermen:

First Ward—C. W. Gottschalk, George W. Sherrick.
 Second Ward—Philip B. Reily, Henry B. Belt.
 Third Ward—Daniel G. Taylor, Erastus Wells.
 Fourth Ward—E. C. Blackburn (died), Franklin Weston, John Shore.
 Fifth Ward—N. J. Coleman, George Kyler.
 Sixth Ward—J. W. THORNBURGH, John Sexton, Jr.

Delegates:

First Ward—H. J. Hillsdorf, Christian Staehlin.
 Second Ward—Henry Graefenkamp, Thomas M. Wannell.
 Third Ward—James F. Small, CHARLES H. TILSON.
 Fourth Ward—Joshua Houston, Jesse W. Heath.
 Fifth Ward—William S. Cuddy, Charles E. Loring.
 Sixth Ward—James H. Vail, Benjamin L. VanCourt.

1856.—JOHN HOW, Mayor.

Aldermen:

First Ward—Godfrey Schoenthaler (resigned), Henry C. Lynch, David Bayles.
Second Ward—Cornelius Campbell (resigned), Chas. W. Gottschalk, Brannock Jones.
Third Ward—C. C. Simmons, William Palm.
Fourth Ward—GEORGE R. TAYLOR, John Kern (died), Amadee Valle.
Fifth Ward—Erastus Wells, Charles H. Tillson.
Sixth Ward—John Shore, Unit Rasin.
Seventh Ward—Patrick Deegan (died), Henry Dusenbury.
Eighth Ward—C. D. Colman, George Kyler.
Ninth Ward—James Graham, Charles W. Horn.
Tenth Ward—Henry Overstolz, Charles R. Anderson.

Delegates:

First Ward—Henry Olmstead, Henry C. Katz.
Second Ward—John H. Amelung, Henry Graefenkamp.
Third Ward—Gerhard Schepmann, Theophile Papin.
Fourth Ward—SAMUEL SIMMONS, Smith Litchfield.
Fifth Ward—John F. Long, C. C. McClure.
Sixth Ward—Jesse W. Heath (resigned), Augustus Pomeroy, Edward S. Wheaton.
Seventh Ward—W. S. Bachmann, C. Tiernan.
Eighth Ward—John C. Vogel, Davis Moore.
Ninth Ward—William McKee, Robert Graham.
Tenth Ward—Andrew Getty, Daniel McGill.

1857.—JOHN M. WIMER, Mayor.

Aldermen:

First Ward—Henry C. Lynch, L. Babcock.
Second Ward—John H. Fisse, Brannock Jones.
Third Ward—C. C. Simmons, R. N. Renick.
Fourth Ward—GEORGE R. TAYLOR, Amadee Valle.
Fifth Ward—Charles Tillson, Erastus Wells.
Sixth Ward—John Shore, C. C. McClure.
Seventh Ward—Charles G. Stifel, E. M. Powers.
Eighth Ward—C. D. Colman, George Kyler.
Ninth Ward—James Graham, Charles W. Horn.
Tenth Ward—Charles R. Anderson, John Sexton.

Delegates:

First Ward—James Gorman, Henry Olmstead.
Second Ward—Theophile Papin (resigned), Thomas S. Nelson, William D'Oench.
Third Ward—E. P. Tony, J. H. Graefenkamp.
Fourth Ward—Samuel Simmons (resigned), Fred Buschman, Sol. J. Levi.
Fifth Ward—A. D. Pomeroy, John W. Burd.
Sixth Ward—James H. McClure, Thomas R. Axtell.
Seventh Ward—Thomas J. Dailey, Robert Kinnear.
Eighth Ward—JOHN C. VOGEL, Davis Moore.
Ninth Ward—William McKee, Conrad Doll.
Tenth Ward—Felix A. McDonald, James R. Dobyns.

1858—OLIVER D. FILLEY, Mayor.

Aldermen:

First Ward—L. Babcock, Thomas Allen.
Second Ward—Brannock Jones, F. W. Cronenbold.
Third Ward—R. M. Renick, J. H. Graefenkamp.
Fourth Ward—Amadee Valle, John G. Shelton.
Fifth Ward—Erastus Wells, Charles Tillson.
Sixth Ward—S. W. Adreon, C. C. McClure.
Seventh Ward—Thomas J. Dailey, F. W. Corbitt.
Eighth Ward—GEORGE KYLER, John C. Vogel.
Ninth Ward—Charles W. Horn, Patrick Gorman.
Tenth Ward—John Sexton, James Doyle.

Delegates:

First Ward—Frederick Hohenschildt, Henry Almstedt.
 Second Ward—THOMAS S. NELSON, J. G. Vogel.
 Third Ward—Philip H. Bishop, William Horine (resigned), George Bayha.
 Fourth Ward—Sol. J. Levi, Ira Stout (resigned), John Young.
 Fifth Ward—Bernard Platte, Jr., Peter Ames.
 Sixth Ward—James S. Wilgus, Dwight Durkee.
 Seventh Ward—John J. Wilshusen, Jesse W. Heath.
 Eighth Ward—Davis Moore, Horatio Wood.
 Ninth Ward—Daniel McGill, Caspar Stolle.
 Tenth Ward—James R. Dobyns, Nicholas Hatch.

1859.—OLIVER D. FILLEY, Mayor.

Councilmen:

First Ward—Thomas Allen, Henry Kayser.
 Second Ward—F. W. Cronenbold, Thomas S. Nelson.
 Third Ward—J. A. Graefenkamp, Theophile Papin.
 Fourth Ward—J. H. Shelton (resigned), GEORGE R. TAYLOR, John H. Andrews.
 Fifth Ward—Charles H. Tillson, Erastus Wells.
 Sixth Ward—S. W. Adreon, Dr. S. B. Burnett.
 Seventh Ward—Francis H. Manter, Casper H. Holthaus.
 Eighth Ward—John C. Vogel, George Kyler.
 Ninth Ward—Patrick Gorman (resigned), Caspar Stolle, John Reilly.
 Tenth Ward—James Doyle, John Sexton, Jr.

1860.—OLIVER D. FILLEY, Mayor.

Councilmen:

First Ward—Henry Kayser (resigned), Thomas C. Chester, Joseph H. Locke.
 Second Ward—Thomas S. Nelson, F. W. Cronenbold.
 Third Ward—Theophile Papin (resigned), G. W. Dreyer, P. A. Ladue.
 Fourth Ward—Jotham Bigelow, John H. Andrews (resigned), Thos. Burke.
 Fifth Ward—Erastus Wells, Joseph H. McBride.
 Sixth Ward—Dwight Durkee, S. W. Adreon.
 Seventh Ward—F. H. MANTER, J. W. Crane.
 Eighth Ward—George Kyler, John C. Vogel.
 Ninth Ward—Caspar Stolle, Isaac T. Greene.
 Tenth Ward—John Sexton, Jr. (resigned), L. W. Mitchell, Thomas M. Speers.

1861.—DANIEL G. TAYLOR, Mayor.

Councilmen:

First Ward—Thomas C. Chester, J. Gabriel Woerner.
 Second Ward—F. W. Cronenbold, Thomas S. Nelson.
 Third Ward—G. W. Dreyer, John F. Thornton.
 Fourth Ward—Thomas Burke, Robert M. Funkhouser.
 Fifth Ward—Joseph H. McBride, ERASTUS WELLS.
 Sixth Ward—S. W. Adreon, Dr. S. B. Burnett.
 Seventh Ward—J. W. Crane, Earl Matlack.
 Eighth Ward—John C. Vogel, Robert Thornburgh.
 Ninth Ward—Isaac T. Greene, Patrick Driscoll.
 Tenth Ward—L. W. Mitchell, Thomas M. Speers.

1862.—DANIEL G. TAYLOR, Mayor.

Councilmen:

First Ward—J. GABRIEL WOERNER, John C. Rust.
 Second Ward—Thomas S. Nelson, F. W. Cronenbold.
 Third Ward—John F. Thornton, G. W. Dreyer.
 Fourth Ward—Robert M. Funkhouser, Tony Niederwieser.
 Fifth Ward—Erastus Wells, John Cairns.
 Sixth Ward—J. B. Burnett, Joshua Cheever.
 Seventh Ward—Earl Matlack, Thomas J. Dailey.
 Eighth Ward—Robert Thornburgh, Charles W. Horn.
 Ninth Ward—Patrick Driscoll, Solon Stark.
 Tenth Ward—Thomas M. Speers, Aaron W. Fagin.

1863.—CHAUNCEY I. FILLEY, Mayor.

Councilmen:

First Ward—John C. Rust, J. Gabriel Woerner.
Second Ward—F. W. CRONENBOLD, Charles W. Gottschalk.
Third Ward—G. W. Dreyer, Hermann Schepman.
Fourth Ward—Tony Niederwieser, Henry McKee.
Fifth Ward—John Cairns, Erastus Wells.
Sixth Ward—Joshua Cheever, Samuel Plant.
Seventh Ward—Thomas J. Dailey, Fred Doerning.
Eighth Ward—Charles W. Horn, John Grether.
Ninth Ward—Solon Stark, Patrick Driscoll.
Tenth Ward—Aaron W. Fagin, Benjamin Charles (resigned), Chas. Sessinghaus (died).

1864.—JAMES S. THOMAS, Mayor.

Councilmen:

First Ward—J. G. Woerner, A. Kriekhaus.
Second Ward—Charles W. Gottschalk, Henry C. Gemppe.
Third Ward—Hermann Schepman, Amadee Valle.
Fourth Ward—A. S. W. Goodwin, Tony Niederwieser.
Fifth Ward—Erastus Wells, John Cairns.
Sixth Ward—Samuel Plant, Joshua Cheever.
Seventh Ward—Jesse W. Heath, Henry Stagg.
Eighth Ward—JOHN GREETHER, Charles W. Horn.
Ninth Ward—Patrick Driscoll, Daniel McAuliffe.
Tenth Ward—Charles Schoenbeck, Charles Borg.

1865.—JAMES S. THOMAS, Mayor.

Councilmen:

First Ward—A. Kriekhaus, Christopher A. Stifel.
Second Ward—Henry C. Gemppe, F. W. Cronenbold (resigned), Louis Gottschalk.
Third Ward—Amadee Valle, Herman Schepman.
Fourth Ward—Tony Niederwieser, A. S. W. Goodwin (resigned and re-elected).
Fifth Ward—John Cairns, Erastus Wells.
Sixth Ward—Joshua Cheever, Samuel Plant.
Seventh Ward—Henry Stagg (resigned), John O'Brien, Charles F. Walther.
Eighth Ward—Charles W. Horn, JOHN GREETHER.
Ninth Ward—Daniel McAuliffe, Patrick Driscoll.
Tenth Ward—Charles Borg, Charles Schoenbeck.

1866.—JAMES S. THOMAS, Mayor.

Aldermen:

First District—A. Kriekhaus, Isidore Bush.
Second District—John F. Thornton, John Finn.
Third District—Erastus Wells, M. J. Hartnett.
Fourth District—J. Philip Krieger, William Frudeneau.
Fifth District—P. Driscoll, H. C. Brokmeyer.

Delegates:

First Ward—C. August Stifel, August Etling.
Second Ward—Louis Gottschalk, Christ Overbeck.
Third Ward—Phil. H. Bishop, James R. Lake.
Fourth Ward—Peter G. Gerhardt, Elon G. Smith.
Fifth Ward—John Cairns, Hampton Woodruff.
Sixth Ward—Henry D. Belt, Ewing C. Ketchum.
Seventh Ward—R. D. Lancaster, John Houston.
Eighth Ward—William Henry, Ed. Herzog.
Ninth Ward—James Ashworth, Daniel McAuliffe.
Tenth Ward—Robert S. King, Edgar A. Richardson.

1867.—JAMES S. THOMAS, Mayor.

Councilmen:

First Ward—August Etling.
 Second Ward—A. Kriekhaus, John C. Fink.
 Third Ward—Charles W. Gottschalk, Henry Amelung.
 Fourth Ward—George Friederich, Anthony Ittner.
 Fifth Ward—Tony Niederwieser, David Powers.
 Sixth Ward—Erastus Wells, Charles A. Mantz.
 Seventh Ward—George Babcock, Chas. W. Horn.
 Eighth Ward—R. D. Lancaster, William Bosbyshell.
 Ninth Ward—JOHN O'BRIEN, Sol. J. Quinlivan.
 Tenth Ward—Patrick Driscoll, M. W. Hogan.
 Eleventh Ward—Charles Schoenbeck, H. S. Parker.
 Twelfth Ward—Charles F. Borg.

1868.—JAMES S. THOMAS, Mayor.

Councilmen:

First Ward—August Etling.
 Second Ward—A. Kriekhaus, F. Cratz.
 Third Ward—Charles W. Gottschalk, Henry Amelung.
 Fourth Ward—Anthony Ittner, George Friedrich.
 Fifth Ward—Elon G. Smith, David Powers.
 Sixth Ward—Erastus Wells, Charles A. Mantz.
 Seventh Ward—James Coff, George Babcock.
 Eighth Ward—J. McCord, William Bosbyshell.
 Ninth Ward—John O'Brien, Sol. J. Quinlivan.
 Tenth Ward—P. Driscoll, M. W. Hogan.
 Eleventh Ward—Charles Schoenbeck, J. M. Jordan.
 Twelfth Ward—Horace Fox.

1869.—NATHAN COLE, Mayor.

Councilmen:

First Ward—Archibald Douglas.
 Second Ward—Fred Cratz, A. Kriekhaus.
 Third Ward—H. H. Smith, Charles W. Gottschalk.
 Fourth Ward—F. G. Fitzgerald, George Friedrich.
 Fifth Ward—David Powers, Elon G. Smith.
 Sixth Ward—Charles A. Mantz, Samuel Pepper.
 Seventh Ward—James Coff, Henry C. Yaeger.
 Eighth Ward—James McCord, William Bosbyshell.
 Ninth Ward—John O'Brien, Henry Hannibal.
 Tenth Ward—Patrick Driscoll, M. W. Hogan.
 Eleventh Ward—John M. Jordan, William K. Patrick.
 Twelfth Ward—Samuel B. Stannard.

1870.—NATHAN COLE, Mayor.

Councilmen:

First Ward—Fred. Hill, Archibald Douglas.
 Second Ward—A. Kriekhaus, F. Cratz.
 Third Ward—H. H. Smith, Charles W. Gottschalk.
 Fourth Ward—George Friederich, George Bain.
 Fifth Ward—David Powers, Elon G. Smith.
 Sixth Ward—Samuel Pepper, S. H. Laflin.
 Seventh Ward—Henry C. Yaeger, D. B. Gale.
 Eighth Ward—William Bosbyshell, John O'Brien.
 Ninth Ward—Henry Hannibal, John O'Brien.
 Tenth Ward—M. W. Hogan, L. S. Bargaen.
 Eleventh Ward—W. K. Patrick, H. Overstolz.
 Twelfth Ward—Samuel B. Stannard, Henry Schwaner.

1871—JOSEPH BROWN, Mayor.

Councilmen:

First Ward—H. J. Hinsman, Archibald Douglas.
 Second Ward—A. Kriekhaus, Fred Cratz.
 Third Ward—Charles W. Gottschalk, J. H. Amelung.
 Fourth Ward—George Bain, James Tiernan.
 Fifth Ward—ELON G. SMITH, Jeremiah Ryan.
 Sixth Ward—Charles A. Mantz, James Garvin.
 Seventh Ward—Henry C. Yaeger, D. B. Gale.
 Eighth Ward—James C. Rogers, John O'Brien.
 Ninth Ward—Hugh Hawkins, John O'Brien.
 Tenth Ward—L. S. Bargaen, Michael Madden.
 Eleventh Ward—Henry Overstolz, W. K. Patrick.
 Twelfth Ward—S. B. Stannard, H. Rechtien.

1872.—JOSEPH BROWN, Mayor.

Councilmen:

First Ward—A. McHose, H. J. Hinsman.
 Second Ward—Augustus Kriekhaus, John Pauly.
 Third Ward—August Koch, J. H. Amelung.
 Fourth Ward—George Bain, James Tiernan.
 Fifth Ward—Elon G. Smith, Jeremiah Ryan.
 Sixth Ward—James Garvin, LEWIS V. BOGY.
 Seventh Ward—Henry C. Yaeger, William Currie.
 Eighth Ward—John E. Hagerty, James C. Rogers.
 Ninth Ward—Daniel McAteer, Hugh Hawkins (died).
 Tenth Ward—Michael Madden, John P. Mullally.
 Eleventh Ward—Henry Overstolz, William K. Patrick.
 Twelfth Ward—Herman Rechtien, Samuel B. Stannard.

1873.—JOSEPH BROWN, Mayor.

Councilmen:

First Ward—A. McHose, James Meegan.
 Second Ward—John Pauly, A. Fischer, Sr.
 Third Ward—August Koch, J. H. Amelung.
 Fourth Ward—George Bain, James Tiernan.
 Fifth Ward—Elon G. Smith, James S. Foster.
 Sixth Ward—Theophile Papin, A. W. Mead.
 Seventh Ward—Wm. Currie, Nicholas Schaeffer.
 Eighth Ward—James C. Rogers, John E. Hagerty.
 Ninth Ward—Daniel McAteer, Thomas Morris.
 Tenth Ward—John P. Mullally, Michael Madden.
 Eleventh Ward—HENRY OVERSTOLZ, Wm. K. Patrick.
 Twelfth Ward—H. Rechtien, L. S. Metcalfe.
 Thirteenth Ward—S. F. Ransdell, J. J. Schmitt.

1874.—JOSEPH BROWN, Mayor.

Councilmen:

First Ward—James Meegan, L. A. Steber.
 Second Ward—A. Fischer, Sr., Theodore Horman.
 Third Ward—J. H. Amelung, C. E. Salomon.
 Fourth Ward—James Tiernan, C. W. Francis.
 Fifth Ward—James S. Foster, L. J. Clark.
 Sixth Ward—THEOPHILE PAPIN, Henry S. Turner.
 Seventh Ward—Nicholas Schaeffer, M. D. Collier.
 Eighth Ward—James C. Rogers, John E. Hagerty.
 Ninth Ward—Thomas Morris, John O'Brien.
 Tenth Ward—Michael Madden, John P. Mullally.
 Eleventh Ward—Wm. K. Patrick, J. B. Woestman.
 Twelfth Ward—L. S. Metcalfe, H. Rechtien.

1875.—ARTHUR B. BARRET, Mayor.

(Died April 23, 1875. James Britton elected to fill the vacancy.)

Councilmen:

First Ward—L. A. Steber, B. W. Etling.
 Second Ward—Theodore Horman, A. Fischer, Sr.
 Third Ward—C. E. Salomon, J. H. Amelung.
 Fourth Ward—Chas. W. Francis, Wm. Keating.
 Fifth Ward—L. J. Clark, James S. Foster.
 Sixth Ward—Henry S. Turner, James L. Patterson.
 Seventh Ward—M. Dwight Collier, W. E. Kortkamp.
 Eighth Ward—J. E. Hagerty, A. J. Geraghty.
 Ninth Ward—John O'Brien, Thomas Morris.
 Tenth Ward—John P. Mullally, Michael Madden.
 Eleventh Ward—J. B. Woestman, J. H. Pohlman.
 Twelfth Ward—H. RECHTIEN, Samuel B. Stannard.
 Thirteenth Ward—Jas. Meegan, P. Leahy.

1876.—HENRY OVERSTOLZ, Mayor.

(Declared elected by the council, Feb. 9, 1876, instead of James H. Britton.)

Councilmen:

First Ward—B. W. Etling, L. A. Steber.
 Second Ward—A. Fisher, Sr., Theodore Horman.
 Third Ward—J. H. Amelung, C. E. Salomon.
 Fourth Ward—Wm. Keating, Chas. W. Francis.
 Fifth Ward—James S. Foster, C. A. Spalding.
 Sixth Ward—Jas. L. Patterson, Geo. H. Loker.
 Seventh Ward—W. E. Kortkamp, Jno. J. Sutter.
 Eighth Ward—A. J. Geraghty, John O'Malley.
 Ninth Ward—Thos. Morris, Thomas J. Hennessy.
 Tenth Ward—Michael Madden, John P. Mullally.
 Eleventh Ward—J. H. Pohlman, Wm. H. Woodward.
 Twelfth Ward—S. B. Stannard, D. S. Irons.
 Thirteenth Ward—P. Leahy, M. J. Brennan.

1877-1881.—HENRY OVERSTOLZ, Mayor.

COUNCIL—1877-1879.

JOHN H. LIGHTNER, President.

S. D. Barlow, Thomas Foley, John J. O'Brien, George W. Parker, Geo. Rinkel, Jr.,
 John Rude.

1877-1881

Nicholas Berg, A. L. Bergfeld, Given Campbell (resigned),* Moses Fraley, Edward
 S. Rowse, William H. Scudder.

HOUSE OF DELEGATES—1877-1879.

First Ward—A. C. L. Haase.	Tenth Ward—Frank Backof.
Second Ward—Jos Crawshaw.	Eleventh Ward—A. N. DeMenil.
Third Ward—C. A. Stifel.	Twelfth Ward—Patrick Sullivan.
Fourth Ward—John McManus.	Thirteenth Ward—John Williams.
Fifth Ward—J. H. Amelung (resigned), Philip A. Meinberg.	Fourteenth Ward—H. C. Meyer.
Sixth Ward—W. C. Van Dillen.	Fifteenth Ward—William B. Ryder.
Seventh Ward—C. H. Reichman.	Sixteenth Ward—Otto Kulage.
Eighth Ward—P. Gundlach.	Seventeenth Ward—A. W. Henry.
Ninth Ward—E. H. Vordtriede.	Eighteenth Ward—George W. Updike.
	Nineteenth Ward—Conrad Rose.

*Succeeded by Robert M. Parks.

HOUSE OF DELEGATES—1877-1879—Continued.

Twentieth Ward—W. F. Cozzens.	Twenty-fourth Ward—P. O'Brien.
Twenty-first Ward—W. L. EWING, Jr., speaker.	Twenty-fifth Ward—Richard Markel.
Twenty-second Ward—R. L. Jones.	Twenty-sixth Ward—A. B. Barbee.
Twenty-third Ward—Louis Nolte.	Twenty-seventh Ward—Jacob Thorp.
	Twenty-eighth Ward—Chris. Conrades.

HOUSE OF DELEGATES—1879-1881.

First Ward—Michael O'Malley.	Fifteenth Ward—Wm. B. Ryder.
Second Ward—John G. Haas.	Sixteenth Ward—Frank Hussman, Jr.
Third Ward—John A. Wolfinger.	Seventeenth Ward—G. W. Carmichael.
Fourth Ward—John Tighe.	Eighteenth Ward—Thos. R. Garard.
Fifth Ward—Ph. A. Meinberg.	Nineteenth Ward—Frank H. Hecker.
Sixth Ward—Amos. S. Partridge.	Twentieth Ward—John J. O'Neill.
Seventh Ward—Paul Young.	Twenty-first Ward—E. B. Kirby.
Eighth Ward—Peter Gundlach.	Twenty-second Ward—John W. Dunn.
Ninth Ward—Jos. G. MARRIOTT, speaker.	Twenty-third Ward—Wm. L. Hickman.
Tenth Ward—Bernard Donnelly.	Twenty-fourth Ward—Peter Bouchein.
Eleventh Ward—Geo. Weisenberger.	Twenty-fifth Ward—Ferdinand Kaiser.
Twelfth Ward—Thos. J. Cornelius.	Twenty-sixth Ward—A. B. Barbee.
Thirteenth Ward—Henry Ziegenhein.	Twenty-seventh Ward—Jacob Thorp.
Fourteenth Ward—Fred Siefker.	Twenty-eighth Ward—Peter G. Gerhart.

1881-1885.—WILLIAM L. EWING, Mayor.

COUNCIL—1879-1883.

Alexander N. DeMenil, Edward C. Kehr, N. G. Larimore, Patrick McGrath, Web.
M. Samuel and R. T. Tansey.

1881-1885.

GEORGE W. PARKER, President.

Henry S. Parker, Edward S. Rowse, William H. Scudder, Joseph P. Vastine, Frederick
E. Zelle and Henry Ziegenhein.

HOUSE OF DELEGATES—1881-1883.

First Ward—A. Thoman.	Fourteenth Ward—B. Hoffman.
Second Ward—W. V. Rutledge.	Fifteenth Ward—E. W. Donk.
Third Ward—John A. Wolfinger.	Sixteenth Ward—Frank Hussman, Jr.
Fourth Ward—James H. O'Brien.	Seventeenth Ward—Eugene C. Slevin.
Fifth Ward—John H. Amelung.	Eighteenth Ward—Joseph Stern.
Sixth Ward—William Aston, H. Horst- brink (resigned).	Nineteenth Ward—Conrad Rose.
Seventh Ward—Fred Zelle.	Twentieth Ward—John J. O'Neill.
Eighth Ward—Peter Gundlach.	Twenty-first Ward—E. F. W. Meier.
Ninth Ward—JOSEPH G. MARRIOTT, speak- er.	Twenty-second Ward—John W. Dunn.
Tenth Ward—Cyrus P. Walbridge.	Twenty-third Ward—W. L. Hickman.
Eleventh Ward—Geo. Weisenburger.	Twenty-fourth Ward—Peter Bouchein.
Twelfth Ward—Saml. J. Somerville.	Twenty-fifth Ward—Ferdinand Kaiser.
Thirteenth Ward—Henry Alt.	Twenty-sixth Ward—A. B. Barbee.
	Twenty-seventh Ward—George J. Davis.
	Twenty-eighth Ward—Louis Schaefer.

COUNCIL—1883-1887.

James K. Cummings, Edward Devoy, Wm. F. Haines, Wm. H. Stone, A. W. Straub
and Joseph Temple.

HOUSE OF DELEGATES—1883-1885.

First Ward—Christ. Schawacker.	Sixth Ward—Charles Schoenbeck.
Second Ward—Edward R. Harris.	Seventh Ward—Frank G. Cossman.
Third Ward—John A. Wolfinger.	Eighth Ward—Peter Gundlach.
Fourth Ward—Patrick Brennan.	Ninth Ward—JOSEPH G. MARRIOTT, speak- er, 1883-1884.
Fifth Ward—Henry Rooke.	

HOUSE OF DELEGATES—1883-1885—Continued.

Tenth Ward—F. A. C. MacManus.
 Eleventh Ward—Louis Wagner.
 Twelfth Ward—James M. Sullivan.
 Thirteenth Ward—Henry Alt.
 Fourteenth Ward—Geo. H. Brueggemann.
 Fifteenth Ward—Andrew McAllister.
 Sixteenth Ward—Horace Fox.
 Seventeenth Ward—Eugene C. Slevin.
 Eighteenth Ward—J. C. Richardson.
 Nineteenth Ward—John H. Terry.

Twentieth Ward—Richard Walsh, speaker, 1884-1885.
 Twenty-first Ward—J. C. Brockmeier.
 Twenty-second Ward—John W. Dunn.
 Twenty-third Ward—Nicholas Gates.
 Twenty-fourth Ward—Patrick J. Eagan.
 Twenty-fifth Ward—Ferdinand Kaiser.
 Twenty-sixth Ward—Wm. Gartenbach.
 Twenty-seventh Ward—Geo. J. Davis.
 Twenty-eighth Ward—Thos. J. Cornelius.

1885-1889.—DAVID R. FRANCIS, Mayor.

COUNCIL—1885-1887.

GEORGE W. ALLEN, President.

James K. Cummings, Edward Devoy, Wm. F. Haines, Wm. H. Stone, A. W. Straub, Joseph Temple, T. P. Bell, Walter J. Blakely, James Duross, August Frank, Patrick O'Malley, James A. Seddon, George W. Allen.

HOUSE OF DELEGATES—1885-1887.

First Ward—Peter R. Morrissey.
 Second Ward—Patrick Monahan.
 Third Ward—John Vogel.
 Fourth Ward—Charles D. Keenan.
 Fifth Ward—George Wenzlick.
 Sixth Ward—Charles Schoenbeck.
 Seventh Ward—Christopher Fischer.
 Eighth Ward—Peter Gundlach.
 Ninth Ward—Joseph G. Marriott.
 Tenth Ward—John Waters.
 Eleventh Ward—Louis Kohlbry.
 Twelfth Ward—James M. Sullivan.
 Thirteenth Ward—HENRY ALT, speaker.
 Fourteenth Ward—Geo. H. Brueggemann.

Fifteenth Ward—Edward P. Fox, speaker.
 Sixteenth Ward—Julius Lehman.
 Seventeenth Ward—J. J. Coakley, Jr.
 Eighteenth Ward—Monroe R. Collins, Jr.
 Nineteenth Ward—William Hammerstein.
 Twentieth Ward—P. H. O'Neill.
 Twenty-first Ward—J. C. Brockmeier.
 Twenty-second Ward—John R. Rolfes.
 Twenty-third Ward—Ernest Oberbach.
 Twenty-fourth Ward—H. A. Pishon.
 Twenty-fifth Ward—John Wuebold.
 Twenty-sixth Ward—William Gartenbach.
 Twenty-seventh Ward—Thomas G. Kaye.
 Twenty-eighth Ward—E. F. Stone.

COUNCIL—1887-1889.

T. B. Bell, W. J. Blakely, Nelson Cole, Chas. D. Comfort, James Duross, August Frank, John J. Ganahl, L. S. Metcalf, N. O. Nelson, Patrick O'Malley, Phil. Rohan, John Vogel.

HOUSE OF DELEGATES—1887-1889.

First Ward—JAS. BANNERMAN, speaker.
 Second Ward—Patrick Monahan.
 Third Ward—James A. Guion.
 Fourth Ward—Charles Nolan.
 Fifth Ward—Charles F. Wienel.
 Sixth Ward—Peter Gundlach.
 Seventh Ward—Frank G. Cossman.
 Eighth Ward—Charles D. Keenan, Patrick Brennan.
 Ninth Ward—George Weisenberger.
 Tenth Ward—Thomas J. Lyman.
 Eleventh Ward—Ernest Kutschman.
 Twelfth Ward—August B. Hilgeman.
 Thirteenth Ward—Joseph Murphy.
 Fourteenth Ward—James M. Sullivan.

Fifteenth Ward—Louis Spelbrink.
 Sixteenth Ward—Thomas Wand.
 Seventeenth Ward—John F. Waters.
 Eighteenth Ward—Julius Lehman.
 Nineteenth Ward—John Clark.
 Twentieth Ward—John E. Mohan.
 Twenty-first Ward—Diedrich Norden.
 Twenty-second Ward—Samuel Hays.
 Twenty-third Ward—Henry Alt.
 Twenty-fourth Ward—John H. Pohlman.
 Twenty-fifth Ward—Mathew Ryan.
 Twenty-sixth Ward—Conrad Huber.
 Twenty-seventh Ward—William Gartenbach.
 Twenty-eighth Ward—E. F. Stone.

1889-1893.—EDWARD A. NOONAN, Mayor.

COUNCIL—1889-1891.

CYRUS P. WALBRIDGE, President.

John C. Bensick, Nelson Cole, C. D. Comfort, John J. Ganahl, Andrew Hoolan, Wm. M. Horton, E. F. W. Meier, L. S. Metcalf, N. O. Nelson, Phil. Rohan, John A. Sloan, John Vogel, C. P. Walbridge.

HOUSE OF DELEGATES—1889-1891.

First Ward—W. H. Ryan.
 Second Ward—Patrick Monahan.
 Third Ward—Samuel F. Myerson.
 Fourth Ward—Geo. Grassmuck.
 Fifth Ward—Chas. P. Wienel.
 Sixth Ward—Chas. W. Alsmeyer.
 Seventh Ward—Frank G. Crossman.
 Eighth Ward—Patrick Brennan.
 Ninth Ward—John J. Bogard.
 Tenth Ward—Thos. J. Lynam.
 Eleventh Ward—Henry O. Siegmund.
 Twelfth Ward—Aug. B. Hilgeman, John H. Dieckman, 1890-1891.
 Thirteenth Ward—John Beckert, Jr.
 Fourteenth Ward—Thomas H. Quinn.

Fifteenth Ward—Louis Spelbrink.
 Sixteenth Ward—Frank E. Allenberg.
 Seventeenth Ward—James P. Eagan.
 Eighteenth Ward—Julius Lehman.
 Nineteenth Ward—Louis Kramer.
 Twentieth Ward—John E. Mohan.
 Twenty-first Ward—L. W. Blanke.
 Twenty-second Ward—John Shelley.
 Twenty-third Ward—HENRY ALT, speaker.
 Twenty-fourth Ward—Thos. J. Ward.
 Twenty-fifth Ward—Patrick H. Clark.
 Twenty-sixth Ward—Conrad Huber.
 Twenty-seventh Ward—Chas. Sievers.
 Twenty-eighth Ward—E. F. Stone.

COUNCIL—1891-1893.

W. T. Anderson, Albert Arnstein, John C. Bensick, Nelson Cole, William Cullinane, M. M. Flesh, Andrew Hoolan, Wm. M. Horton, Charles James, E. F. W. Meier, John A. Sloan, Charles E. Wehner, C. P. Walbridge.

HOUSE OF DELEGATES—1891-1893.

First Ward—Jas. H. Cronin.
 Second Ward—Jas. E. Hagerty.
 Third Ward—Edward P. Grimley.
 Fourth Ward—James A. Dacey.
 Fifth Ward—Joseph Rauer.
 Sixth Ward—Chas. Schoenbeck.
 Seventh Ward—F. G. Uthoff.
 Eighth Ward—P. Mullarky.
 Ninth Ward—John J. Bogard.
 Tenth Ward—Thomas Cosgrove.
 Eleventh Ward—Henry O. Siegmund.
 Twelfth Ward—Louis C. Diekman.
 Thirteenth Ward—Peter O'Brien.
 Fourteenth Ward—Wm. H. O'Brien.
 Fifteenth Ward—Louis Spelbrink.

Sixteenth Ward—Edward J. McGroarty.
 Seventeenth Ward—James P. Eagan.
 Eighteenth Ward—Julius Lehman.
 Nineteenth Ward—Thos. Kinnavey.
 Twentieth Ward—James H. Townsend.
 Twenty-first Ward—S. P. Keyes.
 Twenty-second Ward—John Courtney.
 Twenty-third Ward—Henry Alt.
 Twenty-fourth Ward—THOMAS J. WARD, speaker.
 Twenty-fifth Ward—Patrick H. Clark.
 Twenty-sixth Ward—Conrad Huhn.
 Twenty-seventh Ward—Thos. G. Kaye.
 Twenty-eighth Ward—Thos. J. Bradshaw.

1893-1897.—CYRUS P. WALBRIDGE, Mayor.

COUNCIL—1893-1895.

CHARLES NAGEL, President.

Wm. T. Anderson, Albert Arnstein, Patrick H. Blanke, Wm. Cullinane, Franklin Ferriss, M. M. Flesh, Paulus Gast, Charles James, Sylvester P. Keyes, Max Kotany, Alfred Vallat, Chas. E. Wehner, Charles Nagel.

HOUSE OF DELEGATES—1893-1895.

First Ward—Jas. H. Cronin.
 Second Ward—Jas. E. Hagerty.
 Third Ward—E. P. Grimley.
 Fourth Ward—J. A. Dacey.
 Fifth Ward—Henry Bruck, succeeding.
 Sixth Ward—C. W. Alsmeyer.
 Seventh Ward—J. H. Becker.
 Eighth Ward—W. C. Edwards.
 Ninth Ward—J. H. Welkenér.
 Tenth Ward—Henry Henning.
 Eleventh Ward—Charles Kratz.
 Twelfth Ward—H. E. Regenhardt.
 Thirteenth Ward—J. M. Murphy.
 Fourteenth Ward—W. H. O'Brien.
 Fifteenth Ward—Casper Kraleman.

Sixteenth Ward—T. E. Albright.
 Seventeenth Ward—W. C. Marten.
 Eighteenth Ward—Theo. H. Whitehill.
 Nineteenth Ward—Thos. Kinnavey.
 Twentieth Ward—J. H. TOWNSEND, speaker.
 Twenty-first Ward—J. F. Taubold.
 Twenty-second Ward—C. H. Stone.
 Twenty-third Ward—Henry Alt.
 Twenty-fourth Ward—D. J. Sullivan.
 Twenty-fifth Ward—M. J. Ryan.
 Twenty-sixth Ward—W. C. Kelly.
 Twenty-seventh Ward—M. J. Casey.
 Twenty-eighth Ward—E. S. Pike.

COUNCIL—1895-1897.

CHAS. NAGEL, President.

John G. Brinkmeyer, P. H. Clarke, Franklin Ferriss, Paulus Gast, Oliver L. Hagan,
 Geo. P. Heckel, Wm. M. Horton, Halsey C. Ives, Sylvester P. Keyes, Max Kotany,
 Fred G. Uthoff, Alfred Vallat, Charles Nagel.

HOUSE OF DELEGATES—1895-1897.

First Ward—Jas. H. Cronin.
 Second Ward—W. H. Judy.
 Third Ward—C. S. Stewart.
 Fourth Ward—Geo. Grassmuck.
 Fifth Ward—Gottlieb Wittler.
 Sixth Ward—Otto Schumacher.
 Seventh Ward—Jno. H. Becker.
 Eighth Ward—Edmund Bersch.
 Ninth Ward—Henry Scherf.
 Tenth Ward—F. H. Krietemeyer.
 Eleventh Ward—Edgar A. Mephram.
 Twelfth Ward—LOUIS C. DIEKMANN.
 Thirteenth Ward—Jno. P. Marshall.
 Fourteenth Ward—Jno. J. Burke.
 Fifteenth Ward—Geo. Sippel.

Sixteenth Ward—Louis E. Dehlendorf.
 Seventeenth Ward—Hiram Lloyd.
 Eighteenth Ward—Julius Lehman.
 Nineteenth Ward—Jno. K. Murrell.
 Twentieth Ward—Wm. H. Ritter.
 Twenty-First Ward—Jno. F. Taubold.
 Twenty-second Ward—Frank C. Pauley.
 Twenty-Third Ward—Jno. H. Debrodt.
 Twenty-Fourth Ward—D. J. Sullivan.
 Twenty-Fifth Ward—C. W. Watson.
 Twenty-Sixth Ward—WM. C. KELLY.
 Twenty-Seventh Ward—Wm. G. Buechner.
 Twenty-Eighth Ward—Harmon M. Wilcox.

1897-1901.—HENRY ZIEGENHEIN, Mayor.

COUNCIL—1897-1899.

E. F. W. MEIER, President.

John G. Brinkmeyer, Charles E. Carroll, Henry Gaus, Paulus Gast, Oliver L. Hagan,
 Geo. P. Heckel, Wm. M. Horton, Halsey C. Ives, Charles Kratz, Chas. H. Thuner,
 Fred G. Uthoff, Charles E. F. W. Meier.

HOUSE OF DELEGATES—1897-1899.

First Ward—Jos. L. Schuler.
 Second Ward—W. H. Judy.
 Third Ward—Henry Wander.
 Fourth Ward—Jno. P. Sweeney.
 Fifth Ward—Adolph Madera.
 Sixth Ward—Otto Schumacher.
 Seventh Ward—Julius P. Hirth.
 Eighth Ward—Edmund Bersch.

Ninth Ward—Emile Hartmann.
 Tenth Ward—Henry Henning.
 Eleventh Ward—Chas. A. Gutke.
 Twelfth Ward—John Helms.
 Thirteenth Ward—Louis Decker.
 Fourteenth Ward—Jno. J. Burke.
 Fifteenth Ward—Jno. A. King.
 Sixteenth Ward—H. L. Weeke, Jr.

HOUSE OF DELEGATES—1897-1899—Continued.

Seventeenth Ward—HIRAM LLOYD.	Twenty-Fourth Ward—Geo. D. Schaefer.
Eighteenth Ward—JULIUS LEHMAN.	Twenty-Fifth Ward—C. W. Watson.
Nineteenth Ward—Jno. J. Willmore.	Twenty-Sixth Ward—Geo. F. Robertson.
Twentieth Ward—Wm. H. Ritter.	Twenty-Seventh Ward—Henry B. Wittenberg.
Twenty-first Ward—Edward E. Murrell.	Twenty-Eighth Ward—Harry M. Coudrey.
Twenty-Second Ward—Frank C. Pauley.	
Twenty-Third Ward—Jno. H. Debrodt.	

COUNCIL—1899-1901.

E. F. W. MEIER, President.

Chas. E. Carroll, Paulus Gast, Henry Gaus, Jr., W. R. Hodges, Aug. Hoffman, Wm. M. Horton, Vice-Pres., Chas. Kratz, Emil A. Meysenburg, Eben Richards, Louis Schnell, Chas. H. Thuner, Charles Wiggins, E. F. W. Meier.

HOUSE OF DELEGATES—1899-1901.

First Ward—Edmund Bersch.	Fifteenth Ward—John A. King.
Second Ward—Otto Schumacher.	Sixteenth Ward—John J. Burke.
Third Ward—John P. Sweeney.	Seventeenth Ward—T. E. Albright.
Fourth Ward—John A. Sheridan.	Eighteenth Ward—John Helms.
Fifth Ward—James H. Cronin.	Nineteenth Ward—Julius Lehmann.
Sixth Ward—Chas. J. Denny.	Twentieth Ward—Charles F. Kelly.
Seventh Ward—Adolph Madera.	Twenty-First Ward—J. J. Hannigan.
Eighth Ward—John Schnettier.	Twenty-Second Ward—WM. M. TAMBLYN.
Ninth Ward—Emile Hartmann.	Twenty-Third Ward—H. A. Faulkner.
Tenth Ward—Chas. Gutke.	Twenty-Fourth Ward—Lemon Parker.
Eleventh Ward—Louis Decker.	Twenty-Fifth Ward—George Lopez.
Twelfth Ward—Fred G. Zachritz.	Twenty-Sixth Ward—Geo. F. Robertson.
Thirteenth Ward—ED. E. MURRELL.	Twenty-Seventh Ward—Lafe Sturdevant.
Fourteenth Ward—John K. Murrell.	Twenty-Eighth Ward—C. W. Holcamp.

1901-1905.—ROLLA WELLS, Mayor.

COUNCIL—1901-1903.

JOSEPH L. HORNSBY, President.

Joseph Boyce, Chas. E. Gibson, W. R. Hodges, August Hoffman, Wm. H. Horton, George D. Markham, Emil A. Meysenburg, James P. Newell, Eben Richards, Louis Schnell, Jeremiah Sheehan, Joseph Spiegelhalter, Jr., Joseph L. Hornsby.

HOUSE OF DELEGATES—1901-1903.

First Ward—G. H. Oberbeck.	Sixteenth Ward—John J. Burke.
Second Ward—Frank M. Stanze.	Seventeenth Ward—J. J. Howard.
Third Ward—John P. Sweeney.	Eighteenth Ward—John H. Klute.
Fourth Ward—Thomas E. Kinney.	Nineteenth Ward—Sam. B. Stannard.
Fifth Ward—James H. Cronin.	Twentieth Ward—Chas. F. Kelly.
Sixth Ward—Chas. J. Denny.	Twenty-First Ward—J. J. Hannigan.
Seventh Ward—Henry Pfeffle.	Twenty-Second Ward—Jno. R. Fontana.
Eighth Ward—Charles Troll.	Twenty-third Ward—Henry A. Faulkner.
Ninth Ward—Oliver J. Funsch.	Twenty-Fourth Ward—Thos. J. Buckley.
Tenth Ward—Otto F. Karbe.	Twenty-Fifth Ward—C. A. Windmuller.
Eleventh Ward—Edw. Koeln.	Twenty-Sixth Ward—James T. Brennan.
Twelfth Ward—Fred G. Zachritz.	Twenty-Seventh Ward—Chas. L. Geraghty.
Thirteenth Ward—E. E. Murrell.	Twenty-Eighth Ward—Paul C. Reiss.
Fourteenth Ward—Jno. B. Williams.	
Fifteenth Ward—Andrew Gazzolo, Jr.	

COUNCIL—1903-1905.

JOSEPH L. HORNSBY, President.

Joseph Boyce, H. N. Davis, W. A. Gardner, Charles E. Gibson, B. J. Lawlor, George D. Markham, Heine Marks, I. W. Morton, James P. Newell, Henry G. Rolfes, Jeremiah Sheehan, Joseph Spiegelhalter, Jr., Joseph L. Hornsby.

HOUSE OF DELEGATES—1903-1905.

JOHN R. FONTANA, Speaker.

First Ward—Walter D. Griffin.
 Second Ward—Charles Witthoefft.
 Third Ward—Timothy McAuliffe.
 Fourth Ward—Thomas E. Kinney.
 Fifth Ward—Isaac Conran.
 Sixth Ward—W. C. Zimmermann.
 Seventh Ward—George Rott.
 Eighth Ward—E. M. Block.
 Ninth Ward—Thomas S. Stoops.
 Tenth Ward—Wm. H. Hughes.
 Eleventh Ward—Edw. J. O'Neill.
 Twelfth Ward—A. J. Hammerstein.
 Thirteenth Ward—Fred Wiedmer.
 Fourteenth Ward—John B. Williams.
 Fifteenth Ward—Andrew Gazzolo, Jr.

Sixteenth Ward—Timothy Moloney.
 Seventeenth Ward—H. L. Weeke, Jr.
 Eighteenth Ward—Wm. A. Block.
 Nineteenth Ward—George R. Norp.
 Twentieth Ward—John J. O'Brien.
 Twenty-First Ward—Daniel F. Meehan.
 Twenty-Second Ward—JOHN R. FONTANA.
 Twenty-Third Ward—John R. McCarthy.
 Twenty-Fourth Ward—J. G. Teschmacher.
 Twenty-Fifth Ward—Lee W. Hagerman.
 Twenty-Sixth Ward—James T. Brennan.
 Twenty-Seventh Ward—Walter W. Birge.
 Twenty-Eighth Ward—Edgar C. Lackland.

1905-1909.—ROLLA WELLS, Mayor.

COUNCIL—1905-1907.

HAMILTON A. FORMAN, President.

F. Ernest Cramer, H. N. Davis, Mark Ewing, W. A. Gardner, George C. Hitchcock, B. J. Lawlor, Julius Lesser, George C. Linde, Heine Marks, W. A. Moellman, Henry G. Rolfes, Albert R. Thomson, Hamilton A. Forman.

HOUSE OF DELEGATES—1905-1907.

JOHN J. O'BRIEN, Speaker.

First Ward—Fred W. Priesmeyer.
 Second Ward—Chas. H. Witthoefft.
 Third Ward—D. F. Heffernan.
 Fourth Ward—John Golden.
 Fifth Ward—Isaac Conran.
 Sixth Ward—W. C. Zimmermann.
 Seventh Ward—Peter Schuck.
 Eighth Ward—William Kaiser.
 Ninth Ward—George Otto.
 Tenth Ward—Frank N. Simmons.
 Eleventh Ward—William A. Metzler.
 Twelfth Ward—George T. Kollas.
 Thirteenth Ward—Fred Wiedmer.
 Fourteenth Ward—John B. Williams.

Fifteenth Ward—Andrew Gazzolo, Jr.
 Sixteenth Ward—Timothy Moloney.
 Seventeenth Ward—H. L. Weeke.
 Eighteenth Ward—Herman Gevers.
 Nineteenth Ward—A. B. Stannard.
 Twentieth Ward—JOHN J. O'BRIEN.
 Twenty-First Ward—Daniel F. Meehan.
 Twenty-Second Ward—Frank Hussey.
 Twenty-Third Ward—Emmett P. Bentley.
 Twenty-Fourth Ward—R. C. H. Hallock.
 Twenty-Fifth Ward—James F. Connell.
 Twenty-Sixth Ward—James J. Nash.
 Twenty-Seventh Ward—Edgar R. Smythe.
 Twenty-Eighth Ward—Ralph W. Coala.

DIRECTORY OF MUNICIPAL ASSEMBLY 1907-1909.**COUNCIL—OFFICERS.****HAMILTON A. FORMAN, President.****GEORGE F. MOCKLER, Secretary.****JULIUS LESSER, Vice-President.****TAYLOR STITH, Assistant Secretary.****RICHARD M. WRAY, Sergeant-at-Arms.**

Bell Telephone.	NAME.	OFFICE.	RESIDENCE.	Kinloch Telephone.
Sidney 141....	F. Ernest Cramer....	Lemp and Shenandoah Avenues.....	Southern Hotel..... Olive 2000	Victor 372
Main 5480 ...	Frank P. Crunden..	2nd and Gratiot Street..	4426 Westminster..... Forest 2295	Central 220
Main 3121 ...	Mark Ewing	Room 511, Commercial Building.....	3517 Pine Street..... Lindell 1616	Central 2349
Main 4283 ...	A. J. Fitzsimmons..	Carleton Building.....	2859 St. Vincent Ave.. Grand 967	Central 2329
Tyler 366....	Wm. H. Hauschulte.	2407 N. Broadway.....	1109½ Penrose Street Tyler 2694	Central 4180L
Bomont 208..	Albert B. Lambert..	2101 Locust Street.....	2 Hortense Place..... Forest 1170	.....
Main 1805 ...	Julius Lesser	112 S. Main Street.....	4615 Lindell Blvd..... Forest 2388	.....
Main 826	Geo. C. Linde.....	820 N. Broadway.....	2924A Palm Street..... Tyler 247	Central 2137
Main 2630 ...	W. A. Moellman....	812 N. 4th Street.....	2355 Louisiana Ave... Grand 2265	Central 2386
Main 5400 ...	Saunders Norvell...	4th and Washington Av	5337 Cabanne Avenue.. Forest 3263	Central 3240
Tyler 394	John J. O'Brien....	11th and Mullanphy Sts.	5229 Maple Avenue.... Forest 291	Central 332
..	Albert R. Thomson..	616 Fullerton Building..	2226 Sullivan Avenue.. Central 8739L	Central 5274
Main 2144 ...	Hamilton A. Forman	7th and Locust Streets..	Grand Avenue Hotel.. Lindell 17	Central 6562

HOUSE OF DELEGATES—OFFICERS.**ISAAC CONRAN, Speaker.****DANIEL E. NAUGHTON, Assistant Clerk.****JAMES T. BRENNAN, Speaker Pro Tem.****WM. P. BRADY, Sergeant-at-Arms.****THOMAS J. LEONARD, Clerk.****DANIEL A. CORBETT, Page.**

Ward	Bell Telephone.	NAME.	RESIDENCE.	OFFICE.	Kinloch Telephone.
1	.....	F. W. Priesmeyer ..	505 Talcott Avenue..	5200 McKissock Avé.	Central 9557L
2	Tyler 2952..	Ferd. Warner	3607 N. 9th Street...	2523 N. Broadway...	{ Cen. 4071
3	Tyler 2950L	James Gallagher ..	1401 N. 10th Street..	1317 N. Broadway...	{ Cen. 9556L
4	Main 4442 ..	John Golden	815 N. 9th Street....	815 N. 9th Street...	.....
5	.....	Isaac Conran	820 Walnut Street...	813 Walnut Street...	Central 9800L
6	Olive 1532 ..	Alexander Bourg ..	703 S. 2nd Street....	701 S. 2nd Street...	Central 2201L
7	Main 4784 ..	Charles Sachse	1301 S. Broadway...	1301 S. Broadway...	.....
8	.....	Charles Troll	1820 Menard Street..	1820 Menard Street..	Victor 450
9	Sidney 1586L	Joseph Schell	2881 S. 7th Street...	2881 S. 7th Street...	.....
10	South 463..	Frank N. Simmons..	3636a S. Jefferson Av	Foot of Osceola and Texas.	{
11	Sidney 2668	Edwin J. Paule.....	402 W. Schirmer...	7704 Ivory	Victor 907
12	South 221 ..	George T. Kollas....	2131 Russell Avenue	202 N. 10th Street..	{ Cen. 4670
13	Bomont 381..	Fred Wiedmer	2618 Eads Avenue....	214 Chamber of Com	{ Cen. 888
14	.....	Mathew J. Tobin ..	2348 Adams Street...	2216 Clark Avenue...	{ Cen. 6101
15	Main 2971 ..	Fred W. Tirre.....	1510 Franklin Ave...	1510 Franklin Ave...	{ Victor 540L
16	.....	Wm. J. Brennan....	1910 N. 14th Street..	Military Hall, 2400 N. 12th Street...	{ Cen. 3192R
17	Tyler 946 ...	Frank Weeke	2221 Benton Street...	2308 Cass Avenue...	{ Cen. 4296
18	Tyler 861 ...	Herman Gevers	2621 N. 14th Street...	2621 N. 14th Street...	{ Cen. 2550
19	Main 1851 ..	S. B. Stannard	4210 N. Grand Ave...	3rd and Pine Sts...	{ Cen. 1543
20	Tyler 785....	John J. O'Brien....	1521 N. Jefferson Av	2625 Cass Avenue...	{ Cen. 5954
21	Bomont 261..	Wm. H. Langdale ..	1111 N. Compton Av.	2315 Olive Street...	{ Cen. 5256
22	Lindell 4644	Frank Hussey	3516 Lawton Ave...	3516 Lawton Ave...	{ Cen. 9556R
23	Grand 201..	John P. Wollett....	3903a Folsom Ave...	Am. Tobacco Co...	{ Cen. 6829
24	Main 364..	.....	.....	.....	{ Cen. 6481
25	Main 3777..	Herman W. Fay	3904 Hartford Street	222 Walnut Street..	Victor 25
26	Sidney 2302 R	James F. Connell ...	3972 Morgan Street...	Waters-Pierce Oil Co	.....
27	Main 2767..	Jas. T. Brennan....	4041 Easton Avenue...	4041 Easton Avenue...	Cen. 545
28	Lindell 448.	Vincent McShane....	5142 Wells Avenue...	315-316 Fullerton bld	Delmar 2543
29	Olive 711....	Dwight F. Davis....	33 Westmoreland Pl.	319 N. 4th Street...	Cen. 4523
30	Main 2388 ..	.....	.....	.....	.....

BOARD OF PUBLIC IMPROVEMENTS.

1877-1879.

HENRY FLADPresident.
 JOHN W. TURNER.....Street Commissioner.
 THOS. J. WHITMAN.....Water Commissioner.
 ROBERT MOORE.....Sewer Commissioner.
 †JAMES C. MOORE }Harbor and Wharf Commissioner.
 *CHARLES PFEIFFER, }
 EUGENE WEIGEL.....Park Commissioner.

EMORY S. FOSTER, Secretary.

†Resigned July 10, 1878.

*Qualified July 11, 1878.

1879-1883.

HENRY FLAD.....President.
 JOHN W. TURNER.....Street Commissioner.
 THOS. J. WHITMAN.....Water Commissioner.
 †ROBERT MOORE, }Sewer Commissioner.
 *WM. WISE, }
 †CHARLES PFEIFFERHarbor and Wharf Commissioner.
 EUGENE WEIGEL.....Park Commissioner.

EMORY S. FOSTER, Secretary.

†Resigned April 30, 1881.

*Qualified May 3, 1881.

†Died Feb. 17, 1883.

1883-1887.

HENRY FLAD.....President.
 JOHN W. TURNER.....Street Commissioner.
 THOS. J. WHITMAN.....Water Commissioner.
 ROBERT E. McMATH.....Sewer Commissioner.
 JOHN ALT.....Harbor and Wharf Commissioner.
 EUGENE WEIGEL.....Park Commissioner.

EMORY S. FOSTER, Secretary.

1887-1891.

*HENRY FLAD, }President.
 †GEORGE BURNET, }
 †JOHN W. TURNER, }Street Commissioner.
 GEORGE BURNET, }
 M. J. MURPHY, }
 M. L. HOLMAN.....Water Commissioner.
 ROBERT E. McMATH.....Sewer Commissioner.
 †M. J. MURPHY, }Harbor and Wharf Commissioner.
 †DAN ABLE, }
 RICHARD KLEMM.....Park Commissioner.

EMORY S. FOSTER, Secretary.

*Resigned May 7, 1890.

†Qualified May 24, 1890.

‡Resigned October 23, 1888.

§Qualified October 24, 1888, and resigned May 23, 1890.

•Qualified September 24, 1890.

†Resigned September 24, 1890.

||Qualified September 24, 1890.

1891-1895.

*GEORGE BURNET,	}	President.
†ROBERT E. McMATH,		
M. J. MURPHY.....		Street Commissioner.
M. L. HOLMAN.....		Water Commissioner.
R. R. SOUTHARD.....		Sewer Commissioner.
DAN ABLE.....		Harbor and Wharf Commissioner.
JOHN P. FECHTER.....		Park Commissioner.

EMORY S. FOSTER, Secretary.

*Term expired April 18, 1893.

†Qualified April 19, 1893.

1895-1899.

ROBERT E. McMATH.....	President.
A. N. MILNER.....	Street Commissioner.
M. L. HOLMAN.....	Water Commissioner.
B. H. COLBY.....	Sewer Commissioner.
C. H. STONE.....	Harbor and Wharf Commissioner.
F. L. RIDGLEY.....	Park Commissioner.

EMORY S. FOSTER, Secretary.

1899-1903.

*ROBERT E. McMATH,	}	President.
†HIRAM PHILLIPS,		
CHARLES VARRELMANN.....		Street Commissioner.
EDWARD FLAD.....		Water Commissioner.
E. A. HERMANN.....		Sewer Commissioner.
‡HENRY ALT.....	}	Harbor and Wharf Commissioner.
JOSEPH P. WHYTE.		
F. L. RIDGLEY.....		Park Commissioner.

EMORY S. FOSTER, }
WALLER EDWARDS, } Secretary.

*Term expired April, 1901.

†Qualified April, 1901; for term ending April, 1905.

‡Died in office; Joseph P. Whyte appointed as successor.

§Resigned April, 1901.

||Qualified April, 1901.

1903-1907.

*HIRAM PHILLIPS,	}	President.
†A. J. O'REILLY,		
‡CHARLES VARRELMANN,	}	Street Commissioner.
†FRANK F. VALLIANT,		
§BEN C. ADKINS.....		Water Commissioner.
‡FRANK W. VALLIANT,	}	Sewer Commissioner.
||H. R. FARDWELL,		
‡ROBERT AULL.....		Park Commissioner.
JOSEPH P. WHYTE.....		Harbor and Wharf Commissioner.

♦WALLER EDWARDS, }
†W. B. DRYDEN, } Secretary.

*Term expired April, 1905.

†Resigned, to take effect June 1, 1905.

||Appointed June 2, 1905.

†Appointed May 17, 1905, to take effect June 1, 1905.

§Qualified for term ending April, 1907.

†Qualified for term ending April, 1909.

♦Resigned April 21, 1905.

1907-1911.

*A. J. O'REILLY.....	President.
†JAMES C. TRAVILLA.....	Street Commissioner.
†BEN C. ADKINS.....	Water Commissioner.
†H. R. FARDWELL.....	Sewer Commissioner.
†PHILIP C. SCANLAN.....	Park Commissioner.
†JOSEPH P. WHYTE.....	Harbor and Wharf Commissioner.

W. B. DRYDEN, Secretary.

*Qualified for term ending April, 1909.

†Qualified for term ending April, 1911.

MUNICIPAL OFFICERS.

(Elected.)

EXECUTIVE AND ADMINISTRATIVE.

Elected for the term beginning April, 1905, and ending April, 1909.

ROLLA WELLS	Mayor.
A. J. O'REILLY.....	President Board of Public Improvements.
JAMES Y. PLAYER.....	Comptroller.
JAMES M. FRANCISCUS, Jr.....	Treasurer.
BERNARD DIERKES	Auditor.
P. J. REGAN.....	Register.
JAMES HAGERMAN, Jr.....	Collector.
GEO. P. WEINBRENNER.....	Marshal.
OSCAR E. LAYTON.....	Inspector of Weights and Measures.
JOHN J. O'BRIEN.....	President Board of Assessors.
HAMILTON A. FORMAN.....	President of the Council.

MUNICIPAL OFFICERS.

(Appointed.)

1907 to 1911.

DEPARTMENT OF PUBLIC IMPROVEMENTS.

Board of Public Improvements.

A. J. O'REILLY.....	President (elected).
JAS. C. TRAVILLA.....	Street Commissioner.
BEN C. ADKINS.....	Water Commissioner.
H. R. FARDWELL.....	Sewer Commissioner.
PHILIP C. SCANLAN.....	Park Commissioner.
JOS. P. WHYTE.....	Harbor and Wharf Commissioner.

WALTER B. DRYDEN, Secretary.

JAMES A. SMITH.....Commissioner of Public Buildings.

BOARD OF APPEALS FROM THE COMMISSIONER OF PUBLIC BUILDINGS.

(Appointed by Mayor.)

HENRY C. HENLEY, }	Architect.
WM. S. EAMES, }	
J. L. EVANS.....	Master Builder.
THOMAS B. CARTER.....	Supervisor City Lighting.
EDWARD P. QUINN.....	Supervisor of Plumbing.
ANDREW MEYER.....	City Forester.
CHAS. H. JONES.....	Smoke Inspector.

LAW DEPARTMENT.

CHARLES W. BATES.....City Counselor.
BENJAMIN H. CHARLES.....Associate.
CHARLES P. WILLIAMS.....Second Associate.
JAMES G. McCONKEY.....Assistant.
A. H. ROUDEBUSH.....Second Assistant.
LEE B. ENGLISH.....Chief Clerk.

JUDICIAL DEPARTMENT.

First District.

DANIEL O. C. TRACY.....Judge.
THOMAS L. ANDERSON.....City Attorney.
JAMES E. KING.....Assistant City Attorney.
JOHN A. DOWDALL.....Clerk.
EDWARD S. PHELAN.....Assistant Clerk.
JOHN F. LAMB.....Assistant Clerk.

Second District.

WILLIAM JEFFERSON POLLARD.....Judge.
MORTIMER B. LEVY.....Assistant City Attorney.
WILLIAM A. CARTER.....Clerk.

District South of Arsenal.

FRANK M. KLEIBER.....Judge.
ROBERT H. MERRYMAN.....Assistant City Attorney.
CHARLES J. COURTNEY.....Clerk.

HEALTH DEPARTMENT.

Board of Health.

ROLLA WELLS.....President, ex-officio (elected).
H. WHEELER BOND.....Health Commissioner.
HAMILTON A. FORMAN.....President Council (elected).
A. C. STEWART.....Commissioner of Police (designated by Mayor).
HARRY McJOHNSON and JOHN V. BROWN, Members.

W. C. G. KIRCHNER.....Superintendent of City Hospital.

HENRY S. ATKINS.....Superintendent of Insane Hospital.

OSCAR H. ELBRECHT.....Superintendent of Female Hospital.

MICHAEL J. DWYER.....Superintendent of Quarantine.

THOS. A. BUCKLAND.....City Chemist and Milk Inspector.

DOWNEY C. HARRIS.....City Bacteriologist.

REVENUE DEPARTMENT.

JAMES HAGERMAN, JR.....Collector (elected).

Board of Assessors.

JOHN J. O'BRIEN.....President (elected).
 MICHAEL COOKE.....Assessor First District.
 O. H. WYANT.....Assessor Second District.
 A. M. PRICE.....Assessor Third District.
 JOHN P. SHINE.....Assessor Fourth District.
 JAMES DUROSS.....Assessor Fifth District.
 JOHN McCAFFERY.....Assessor Sixth District.
 JOHN J. SHEEHAN.....Assessor Seventh District.
 JOSEPH L. DEVOY.....Assessor Eighth District.
 ELGIN S. BROOKS.....Assessor Ninth District.
 WM. J. MOCKLER.....Assessor Tenth District.

Board of Equalization.

JOHN J. O'BRIEN.....President (elected).

(Members appointed each year by the Judges of the Circuit Court to serve.)

License Division of Revenue Department.

LOUIS ALT.....License Collector.

Board of License Revision (1907).

(Appointed by Council annually.)

PENAL AND CHARITABLE INSTITUTIONS.

Board of Commissioners.

WM. H. McCLAIN.....President.
 HARVEY L. CHRISTY, EDWARD DEVOY,
 LEE SALE, GUSTAV CRAMER,
 TAYLOR STITHSecretary.

ST. LOUIS INDUSTRIAL SCHOOL, OR HOUSE OF REFUGE.

Board of Managers.

ROBT. RUTLEDGE, N. K. SALMON,
 W. CHRISTY BRYAN, H. G. CLEVELAND.
 ROLLA WELLSMayor, Ex-officio.
 ALLEN P. RICHARDSONSuperintendent.
 CASPER J. WOLFJailer.
 JAMES L. DAWSONSuperintendent of Work House.
 WILLIAM ANDERSONSuperintendent of Poor House.

BOARD OF POLICE COMMISSIONERS.

(Appointed by the Governor.)

A. C. STEWARTPresident.
 THEODORIC R. BLANDVice-President.
 GEO. P. JONESTreasurer.

BOARD OF POLICE COMMISSIONERS—Continued.

J. W. FRISTOE	Purchasing Agent.
ROLLA WELLS	Mayor, Ex-officio.
HARRY H. HODGDON	Secretary.

EDMUND P. CREECY	Chief of Police.
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STEAM BOILERS AND ELEVATORS, INSPECTION DEPARTMENT.

Board of Engineers.

JAMES. E. ALLISON.....	Inspector of Boilers and Elevators.
WM. F. WAUL AND GEORGE KINGSLAND.....	Members.

PUBLIC RECREATION COMMISSION.

Park Commissioner	PHILIP C. SCANLAN (ex-officio).
E. J. WILSON	(Term expires December 31, 1908.)
FRED ZEIBIG	" " " " 1909.
E. J. RUSSELL.....	" " " " 1910.
J. CLARK STREETT.....	" " " " 1907.

BOARD OF COMMISSIONERS OF MULLANPHY EMIGRANT RELIEF FUND.

(Elected by the Council.)

JULIUS T. MUENCH.....	President.
GEO. H. SMALL.....	Vice-President.
LOUIS HILFER,	H. W. BALLMAN,
THEOPHILE PAPIN,	FERDINAND P. MEYER,
VITAL W. GARESCHÉ,	GEO. RATERMANN,
B. W. FRAUENTHAL,	JOHN F. HINES,
AUGUST KLEYKAMP,	EDWARD J. MACKEY.
DAN'L L. HATTON,	
ROLLA WELLS	Mayor, Ex-officio.
PHILIP J. HEUER	Secretary.
WM. E. GREIN	Assistant Secretary.
MORGAN S. MATTHEWS	Clerk.
GEORGE D. BARNETT	Architect.

MARKET MASTERS.

JOHN E. HAGERTY, JR.....	Union.
PETER A. STEIF	Soulard.
JOSEPH MURPHY	South.

WEIGHERS OF SCALES.

PATRICK McHALL	Bridge.
GEO. M. BURKE	City Market.
CHAS. W. GASSETT	Thorpe.

JOHN J. BOYCE	Commissioner of Supplies.
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WM. J. FLYNN.....	Assessor and Collector of Water Rates.
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CHIEF DEPUTIES AND CHIEF ASSISTANTS TO MUNICIPAL OFFICERS.

(Appointed.)

WM. C. CONNETT.....	Mayor's Secretary.
WM. M. LOCKWOOD.....	First Assistant Comptroller.
JOSEPH PASQUIER.....	Second Assistant Comptroller.
EDWARD DIERKES.....	First Deputy Auditor.
JOHN FAUDI, JR.....	Second Deputy Auditor.
BRUCE STARKE	Chief Deputy Collector.
WM. P. SAMUEL.....	Assistant Treasurer.
J. W. McCLOSKEY.....	Deputy Register.
CHAS. WEINBRENNER.....	Chief Deputy Marshal.
D. P. O'BRIEN.....	Chief Deputy Assessor.
CHAS. I. J. RICHARDSON.....	Deputy Commissioner of Supplies.
W. B. WINN.....	Assistant Health Commissioner.
C. L. HOBLITZELLE.....	Deputy Assessor and Collector of Water Rates.
JOSEPH PASQUIER.....	Assessor of Special Taxes.
LEO OSTHAUS.....	Deputy Assessor of Special Taxes.
FRED GABEL.....	Assistant to President, Board of Public Improvements.
G. B. STROUP.....	Assistant Street Commissioner.
EDWARD E. WALL.....	Assistant Water Commissioner.
JOHN A. HOOKE.....	Assistant Sewer Commissioner.
GEORGE OSTERLAG.....	General Superintendent of Parks.
EDWARD A. HOBERG.....	Chief Deputy of License Collector.



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